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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PATRICK COTTER, ALEJANDRA MACIEL, and JEFFREY KNUDTSON, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

LYFT, INC.,

Defendant.

Case No.: 3:13-cv-04065-VC

Hon. Vince Chhabria

DECLARATION OF SHANNON LISS-RIORDAN IN SUPPORT OF PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS AND FOR CLASS REPRESENTATIVE SERVICE AWARDS AND IN SUPPORT OF PLAINTIFFS' MOTION FOR FINAL APPROVAL OF REVISED CLASS ACTION SETTLEMENT

Hearing Date: December 1, 2016
Time: 10:00 a.m.
Courtroom: 4

I, Shannon Liss-Riordan, declare as follows:

1. I am a partner at the law firm of Lichten & Liss-Riordan, P.C., and am lead attorney and class counsel for the Plaintiff class in the above-captioned matter. I submit this declaration in support of Plaintiffs' Motion for Attorneys' Fees and Costs and for Class Representative Service Awards and in support of Plaintiffs' Motion for Final Approval of Revised Class Action Settlement. I have personal knowledge of the information set forth herein.

PROFESSIONAL BACKGROUND

2. I am a partner in the law firm of Lichten & Liss-Riordan, P.C., where I practice exclusively in the field of employment law on the side of employees. I co-founded this firm in June 2009. Prior to starting Lichten & Liss-Riordan, P.C., I was a partner at Pyle, Rome, Lichten, Ehrenberg & Liss-Riordan, P.C. I joined Pyle Rome in 1998 and became a partner in 2002.

3. I have exclusively represented plaintiffs in employment litigation for my entire legal career, and my specialty for the last 15 years has been wage and hour class actions, with a focus on class actions regarding independent contractor misclassification, tips, and arbitration issues.

4. I am an honors graduate of Harvard College (A.B., 1990) and Harvard Law School (J.D., 1996). Following law school and prior to practicing at Pyle Rome, I served as a law clerk for two years for U.S. District Court Judge Nancy F. Atlas in the Southern District of Texas.

5. I am a member of the bars of Massachusetts, California, New York, the United States Supreme Court, and the United States Court of Appeals for the First Circuit, Second Circuit, Third Circuit, Seventh Circuit, Ninth Circuit, and D.C. Circuit.

6. I am a frequent invited speaker at seminars sponsored by such organizations as the National Employment Lawyers Association, the American Bar Association,

Massachusetts Continuing Legal Education, the Massachusetts Bar Association, and other organizations on various topics regarding employment law, class actions, and wage and hour litigation. A particular focus that I have frequently been invited to speak on over the last five to ten years, and for which I have been widely recognized as a plaintiff-side expert, has been issues concerning arbitration and class actions.

7. I have been featured by many major publications for my accomplishments representing low wage workers in a variety of industries. These publications include *San Francisco Magazine* (Exhibit A), the *Los Angeles Times* (Exhibit B), the *Wall Street Journal* (Exhibit C), *American Lawyer* (Exhibit D), *Mother Jones* (Exhibit E), the *Boston Globe* (Exhibits F and G), *Commonwealth Magazine* (Exhibit H), and *Massachusetts Lawyers Weekly* (Exhibits I and J). The *Wall Street Journal* (Exhibit C) has said I have become "one of the most influential—and controversial—figures in Silicon Valley." *San Francisco Magazine* (Exhibit A) wrote in a profile of me earlier this year: "Liss-Riordan has achieved a kind of celebrity unseen in the legal world since Ralph Nader sued General Motors."

8. Each year since 2008, I have been selected for inclusion in *Best Lawyers in America* (Chambers). Our firm, and my law partner and I have consistently been ranked in recent years in the top tier for our practice area. The 2013 edition referred to me as "*the reigning plaintiffs' champion*", and the 2015 edition said I am "*probably the best known wage class action lawyer on the plaintiff side in this area, if not the entire country*".[1]

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[1] The 2013 edition of Chambers *Best Lawyers in America* said this about me:

KEY INDIVIDUALS **Shannon Liss-Riordan** is considered a leader of the wage and hour litigation Bar, where she is described by peers as *"the reigning plaintiff's champion."* She has a nationwide practice, and is highly experienced in cases involving tipped employees.

See Exhibit K.

9. Each year since 2008 I have been listed by the *Boston Globe Magazine* as one of "Boston's Best Lawyers". I have been named a "Super Lawyer" by *Boston Magazine* each year since 2005. I was named one of ten "Lawyers of the Year" by *Massachusetts Lawyers Weekly* in 2002 (in my fourth year of practice). In 2009, I was included on "The Power List", *Massachusetts Lawyers Weekly*'s "roster of the state's most influential attorneys" (which described me as a "[*t*]*enacious class-action plaintiffs' lawyer [who] strikes fear in big-firm employment attorneys throughout Boston with her multi-million- dollar victories on behalf of strippers, waiters, skycaps and other non-exempt employees.*").

10. Cases that I have won at trial include[2]: *Travers v. Flight Services & Systems*, C.A. No. 11-10175 (D. Mass. 2014) (skycap terminated in retaliation for leading class action); *DiFiore et al. v. American Airlines, Inc.*, C.A. No. 07-10070 (D. Mass. 2008) (verdict for plaintiff skycaps challenging $2 per bag charge for curbside check-in); *Benoit, et al. v. The Federalist, Inc.*, C.A. No. 04-3516 (Mass. Super. 2007) (verdict for plaintiff class for violation of Massachusetts Tips Law); *Calcagno, et al. v. High Country Investor, Inc., d/b/a Hilltop Steak House*, C.A. No. 03-0707 (Mass. Super. 2006) (verdict for plaintiff class for violation of Massachusetts Tips Law); *Bradley et al. v. City of Lynn et al.*, 443 F.Supp.2d 145 (D. Mass. 2006) (verdict for plaintiff class where federal court held following bench trial that Commonwealth's entry level firefighter hiring examination has disparate impact on minorities and violated Title VII); *Collins v. Commonwealth*, (Mass. Super. Court 2007) (jury verdict in favor of state police trooper who had been disqualified from employment because of his kidney transplant);

[2] In April-May 2016, and again in September-October 2016, I tried a three-week wage and hour collective action trial brought under the FLSA on behalf of assistant store managers challenging their classification as exempt from overtime, *Morrison v. Ocean State Jobbers, Inc.*, C.A. No. 09-1285 (D. Conn.). On two separate occasions, the jury was unable to reach a unanimous verdict, and so the case will be tried for the third time next year.

Bingham v. Lynn Sand & Stone, 93-BEM-1491 (MCAD 2003) (finding of discrimination by MCAD after public hearing that company failed to hire African American truck driver applicant because of his race); *Hernandez v. Winthrop Printing Co.* (Suffolk Superior Court 2002) (jury verdict in favor of Native American/Mexican plaintiff who was terminated in retaliation for complaining of race discrimination); *Sprague v. United Airlines, Inc.*, 2002 WL 1803733 (D. Mass 2002) (judgment of $1.1 million in a discrimination case brought by deaf airline mechanic who had been denied employment based on disability); *Dahill v. Boston Police Department*, 434 Mass. 233 (2001) (Supreme Judicial Court decided that Massachusetts law would diverge from federal law in prohibiting discrimination against individuals with correctable disabilities, resulting in hiring of hearing-impaired police officer candidate and jury verdict of $850,000).

11. Examples of significant cases which I have litigated that have gone to appeal include: *Marzuq v. Cadete Enterprises, Inc.*, 2015 U.S. App. LEXIS 21301 (1st Cir. 2015) (Dunkin Donuts general managers could be eligible for overtime pay by proving management was not their primary duty, distinguishing 1982 First Circuit *Burger King* precedent, which had held fast food managers to be overtime-exempt); *Travers v. Flight Systems & Services*, 2015 U.S. App. LEXIS 21671 (1st Cir. 2015) (affirming jury verdict in favor of skycap who was terminated in retaliation for leading class action wage complaint challenging policy affecting skycaps' tips and reinstating claim for front pay); *Villon v. Marriott.*, Hawaii Supreme Court No. 11-747 (July 15, 2013) (holding that wait staff employees could recover under Hawaii wage law for service charges not remitted to them); *Depianti v. Jan-Pro Franchising International, Inc.*, 465 Mass. 607 (2013) (Massachusetts Supreme Judicial Court held that national company could not evade liability for independent contractor misclassification by virtue of it not having direct contracts with the workers); *Taylor v. Eastern Connection Operating, Inc.*,

465 Mass. 191 (2013) (SJC held Massachusetts independent contractor law applicable to work performed in New York for Massachusetts company); *Matamoros v. Starbucks Corp.*, 699 F.3d 129 (1st Cir. 2012) (holding that Starbucks violated Massachusetts Tips Law by allowing shift supervisors to share in tip pool); *Awuah v. Coverall North America, Inc.*, 460 Mass. 484 (2011) (SJC established the damages awardable for independent contractor misclassification under Massachusetts law, finding it to violate Massachusetts wage law and public policy to charge employees for a job); *DiFiore v. American Airlines, Inc.*, 454 Mass. 486 (2009) (SJC held airline liable for Tips Law violation despite fact that skycap employees were directly employed by an intermediary company), *rev'd on federal preemption grounds*, 646 F.3d 81 (1st Cir. 2011), *cert. denied*, 132 S. Ct. 761 (2011); *Skirchak v. Dynamics Research Corporation*, 508 F.3d 49 (1st Cir. 2007) (First Circuit struck down class arbitration waiver in employer's arbitration policy); *Gasior v. Massachusetts General Hospital*, 446 Mass. 645 (2006) (SJC determined that discrimination claims, including claims for punitive damages, survive the plaintiff's death); *Smith v. Winter Place LLC d/b/a Locke-Ober Co., Inc.*, 447 Mass. 363 (2006) (SJC held employees engaged in protected activity by making internal complaints of wage violations); *Dahill v. Boston Police Department*, 434 Mass. 233 (2001) (SJC decided that Massachusetts law would diverge from federal law in prohibiting discrimination against individuals with correctable disabilities, resulting in hiring of hearing-impaired police officer candidate and jury verdict of $850,000); *Cooney v. Compass Group Foodservice, et al.*, 69 Mass. App. Ct. 632 (2007) (Appeals Court held that servers were entitled as a matter of law to receive proceeds of service charges added to function bills); *King v. City of Boston*, 71 Mass. App. Ct. 460 (2008) (Appeals Court reversed grant of summary judgment in sex discrimination suit, finding that plaintiffs could show that Boston Police Department discriminated against female superior officers by not providing them with separate locker rooms).

12. In addition to the cases described above, I have also litigated and obtained favorable court rulings in many dozens of cases on summary judgment, class certification, and numerous other issues related to wage and hour law, class actions, and arbitration clauses.

13. In addition to class action cases that I have won, or resolved successfully, I and my firm have also worked on many such cases for which we received no compensation at all because the cases were ultimately not successful. Examples of such cases include:

- I spent 9 years (2006-15) litigating on behalf of skycaps challenging all the major airlines' practice of imposing a $2 fee for curbside check-in, which appeared to customers to be a tip for the skycaps. As part of this litigation, I won a trial against American Airlines in federal court, and the verdict was effectively affirmed by the Supreme Judicial Court in *DiFiore v. American Airlines, Inc.*, 454 Mass. 486 (2009). In a follow-up case, the federal court certified a national class action of all American Airlines skycaps across the country. *See Overka v. American Airlines, Inc.*, 265 F.R.D. 14 (D. Mass. 2010). However, the verdict was then reversed by the First Circuit on the ground that the claims were preempted by the Airline Deregulation Act, 49 U.S.C. § 41713(b)(1) (2006). *See DiFiore v. American Airlines, Inc.*, 646 F.3d at 81 (1st Cir. 2011).[3] With that reversal, hundreds of thousands of dollars of fees were lost, and thousands of hours of attorney work went unpaid.

- I spent several years litigating on behalf of Boston and Chicago cab drivers, alleging that they have been misclassified as independent contractors under state law. In the litigation on behalf of the Boston cab drivers, the trial court ruled that the plaintiffs were likely to succeed on the merits of their claims and entered an injunction against the transfer of assets by the owner of Boston Cab Dispatch, an order that was worth more than $200 million, and which was affirmed on appeal. *See Sebago v. Tutunjian*, 85 Mass. App. Ct. 1119 (2014). That result was, however, unexpectedly reversed on appeal by the Supreme Judicial Court, *Sebago v. Boston Cab Dispatch, Inc.*, 471 Mass. 321 (2015), and that entire litigation, including many hundreds of hours of attorney time, went uncompensated. Similarly, the litigation on behalf of Chicago cab drivers was

[3] I made multiple attempts to vindicate the rights of the skycaps, through several different theories, and attempted to pursue these cases to the U.S. Supreme Court three times. *See DiFiore v. American Airlines, Inc.*, 646 F.3d 81 (1st Cir. 2011), *cert. denied*, 132 S. Ct. 761 (2011); *Brown v. United Airlines, Inc.*, 720 F.3d 60 (1st Cir. 2013) *cert. denied*, 134 S. Ct. 1787 (2014); *Overka v. American Airlines, Inc.*, 790 F.3d 36 (1st Cir. 2015), *cert. denied*, 136 S. Ct. 372 (2015).

unsuccessful, and the firm was not compensated for that work either. *See Enger v. Chicago Carriage Cab Co.*, 77 F. Supp. 3d 712 (N.D. Ill. 2014), aff'd 812 F.3d 565 (7th Cir. 2016).

- Likewise, our firm has advanced many hundreds of thousands of dollars in expert expenses and incurred thousands of hours of unpaid attorney time for cases challenging discrimination in promotional exams for police officers in Massachusetts. Although we were successful at trial in an earlier case challenging entry level exams for firefighters and police officers, *see Bradley v. City of Lynn*, 443 F. Supp. 2d 145 (D. Mass. 2006), a follow-up case that has been pending for 9 years which my partner took to trial, *Lopez v. City of Lawrence, Massachusetts*, 2010 WL 2429708, *1 (D. Mass. June 11, 2010), was lost, and the judgment against the plaintiffs has recently been affirmed on appeal, *see* 2016 WL 2897639 (1st Cir. May 18, 2016). Another follow-up case, challenging the disparate impact of police lieutenant promotional exams, which my partner also took to trial, resulted in a win for the plaintiffs. *See Smith v. City of Boston*, 2015 WL 7194554, *2 (D. Mass. Nov. 16, 2015). That case, however, faces the prospect of a lengthy and uncertain appeal, in light of the recent *Lopez* decision from the First Circuit.

- In addition, I have spent significant time over the last three years litigating the case of *O'Connor v. Uber Technologies, Inc.*, C.A. No. 13-03826-EMC (N.D. Cal.). After extremely hard-fought litigation, on the eve of trial, I reached a proposed settlement worth up to $100 million for the class plus significant non-monetary relief. However, the court declined to approve the settlement, and the case now faces an uncertain future, as the Ninth Circuit has (in a related case) reversed the district court's reasoning for holding the defendant's arbitration clause unenforceable, which had led to the certification of a significant class in that case. *See Mohamed v. Uber Technologies, Inc.*, 836 F.3d 1102 (9th Cir. 2016).

14. A plaintiffs-side contingency practice like ours, in which we are able to steadfastly fight legal battles that extend for years, attempting to advance the rights of low wage workers who could not afford to pay out-of-pocket for counsel, is made possible by the nature of contingency fee work. These examples of cases cited above that we have litigated tenaciously, but unsuccessfully, never would have been possible—nor would many other cases for which we have taken tremendous risks over the years, many of which we have succeeded in, and some of which we have disappointingly not—were it not for contingency fees we have been able to recover for our successful litigation.

15. Financed by our successes, our firm has now opened a new office in San Francisco, where we intend to continue fighting vehemently for the rights of workers.

DESCRIPTION OF MY TIME SPENT ON THIS LITIGATION

16. Since I began working on this case in March 2014, I have spent significant time on the case. Although I have not kept billing records for the last 8 years,[4] I estimate that I have spent, to date, approximately 570 hours working on this case, broken down into categories as follows:

- Client and witness communication: approximately 15 hours. This category primarily includes significant time spent communicating with numerous Lyft drivers who have contacted me directly about this case over the last several years.

- Discovery: approximately 50 hours. Most this time was spent reviewing Mr. Carlson's initial drafts of such documents, as described in his declaration. The information this discovery elicited allowed Plaintiffs to withstand Lyft's motion for summary judgment, and it was also sufficient, in my opinion, for us to move for class certification had settlement talks failed. Indeed, at the time the parties reached the basic parameters of a settlement, a draft of a motion for class certification was nearly complete. I also spent a substantial amount of time reviewing the data produced by Lyft in connection with the parties' settlement conferences with Magistrate Judge Ryu. This data was necessary for us to value the extent of damages and/or penalties that could be recovered at trial. I also attended and assisted in the deposition of one of Lyft's persons most knowledgeable.

- Court hearings, settlement conferences, and preparation therefore: approximately 80 hours. Following the hearing on the parties' cross-motions for summary judgment, I took on primary responsibility for court appearances. Mr. Carlson assisted me before and, as needed, during such appearances, as described in his declaration.

- Communication with co-counsel and staff: approximately 100 hours. Mr. Carlson and I and, to a lesser extent, Ms. Pagano and I, have regularly discussed the issues that have arisen in this litigation. However, we have kept our discussions limited, as we must spend our time efficiently as we are all engaged with a heavy and active caseload.

[4] I do not keep contemporaneous records of my time, largely because I am often traveling and working very long hours, and I have been focused on litigating my cases. I feel strongly that my value to my clients has been in my skill and tenacity and not the number of hours that I have labored for them. My estimates, therefore, are made based on my recollection, as well as review of the contemporaneous records kept by Mr. Carlson, which provides me a basis for making reasonable estimates of the time I have worked on this case to date.

- Communication with opposing counsel: approximately 30 hours. I have had primary responsibility for communicating with defense counsel regarding settlement, including negotiations over specific terms of the settlement and discussions regarding the parties' joint submissions to the Court.

- Settlement administration: approximately 25 hours. I have had primary responsibility for planning and executing the administration of the settlement with defense counsel and the Claims Administrator.

- Reviewing and editing drafts of court filings: approximately 250 hours. This category encompasses every court filing in this case beginning in March 2014, including all of those described in Mr. Carlson's declaration.

- Total: approximately 570 hours.[5]

17. These figures do not account for future work that will be spent finalizing these papers, further overseeing the claims administration process, likely defending the settlement on appeal, and, ultimately, enforcing the settlement. This additional work could be significant, potentially even doubling the number of hours I have expended on the case already.

MY HOURLY RATE

18. I believe an hourly rate of $800 for my services rendered in class action litigation in the Northern District of California is a reasonable rate. My rate is based on (1) my knowledge of fees awarded in other cases to attorneys of approximately my experience and position within a law firm and (2) hourly rates charged by defense counsel with similar experience. For example, according to court filings cited in Plaintiffs' Motion,

[5] These figures do not account for significant time spent traveling to the West Coast for hearings in this case, or time spent responding to numerous media inquiries about this case. As I believe it is important for the press to have an accurate understanding of this case and its progress, and particularly because of the unusual public attention it has received, I have spent substantial time responding to the press. I believe this press attention has also helped prompt other companies to revise and improve their practices with respect to their workers, as well as help instigate companies to resolve claims such as the ones brought in this case.

other top lawyers, including partners at other Bay Area plaintiffs-side wage and hour firms, charge rates in line with or higher than this rate, and a partner at defense counsel's firm in this cases charges a $950 hourly rate. Uber's lead counsel, who I have been litigating against in the *O'Connor* case, Theodore Boutrous, has billed an hourly rate of $1,040 in recent cases.[6]

19. Decisions from other cases also show that my rate is reasonable. *See, e.g., Gutierrez v. Wells Fargo Bank, N.A.*, 2015 WL 2438274, *5 (N.D. Cal. May 21, 2015) (in consumer class action, finding reasonable rates for Bay Area attorneys of between $475-$975 for partners); *see also Betancourt v. Advantage Human Resourcing, Inc.*, 2016 WL 344532, *8 (N.D. Cal. Jan. 28, 2016) (in employment law class action, court recently found "reasonable rates for partners range from $560 to $800"); *In re Magsafe Apple Power Adapter Litig.*, 2015 WL 428105, *12 (N.D. Cal. Jan. 30, 2015) (in consumer class action, finding that "[i]n the Bay Area, reasonable hourly rates for partners range from $560 to $800").

20. In addition to the cases I have litigated to trial or appeal listed above, I have also settled many dozens of class action wage and hour cases. When cases have successfully settled, I estimate that my effective hourly rate for the time spent on most of these cases has been in the range of $600 - $1,000 per hour, and often higher.

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[6] *See* Zoe Tillman, Inside Gibson Dunn's Billing Rates in Gay Marriage Case, *The National Law Journal* (Feb. 12, 2016), available at: http://m.nationallawjournal.com/?AspxAutoDetectCookieSupport=1#/article/id=1202749590936/Inside-Gibson-Dunns-Billing-Rates-in-Gay-Marriage-Case?back=DC&kw=Inside%20Gibson%20Dunn%27s%20Billing%20Rates%20in%20Gay%20Marriage%20

HOURS AND RATES FOR OTHER INDIVIDUALS WHO HAVE WORKED ON THIS CASE

A. Adelaide Pagano

21. Adelaide Pagano is an associate attorney at Lichten & Liss-Riordan, P.C. Ms. Pagano is a summa cum laude graduate of Macalester College (B.A., 2009) and a cum laude graduate of Harvard Law School (J.D., 2014). I am familiar with Ms. Pagano's work on this case, as I have been responsible for assigning work tasks related to this case to her, have supervised her on such tasks, and have seen her work on such tasks.

22. Ms. Pagano primarily assisted with this case by helping to revise and draft some filings, by performing occasional research, and by communicating with Lyft drivers who have inquired about the case. Ms. Pagano also helped to prepare for and attended the summary judgment hearing in this matter in January 2015 and helped to prepare for and attended mediation a session before Magistrate Judge Ryu in July 2015. In total, I estimate that Ms. Pagano spent approximately 50 hours working on this case.

23. I believe an hourly rate of $325 for Ms. Pagano's services rendered in class action litigation in the Northern District of California is a reasonable rate. This rate is based on my knowledge of fees awarded in other cases to attorneys of approximately my experience and position within a law firm. For example, according to court filings cited in Plaintiffs' Motion, associates at Schneider Wallace Cottrell Brayton Konecky LLP, an attorney for a Bay Area plaintiffs-side wage and hour firm with similar experience (licensed in 2014) charged a $500 hourly rate; *see also Dixon*, 2014 WL 6951260, *7 (approving hourly rate of $325 for associate with two years' experience); *Cuviello v. Feld Entm't, Inc.*, 2015 WL 154197, *2 (N.D. Cal. Jan. 12, 2015) (awarding fees of $325 per hour to an associate with 2 years' experience); *San Francisco Baykeeper v. W. Bay Sanitary Dist.*, 2011 WL 6012936, *7 (N.D. Cal. Dec. 1, 2011) (awarding rate of $300 for attorney with 2 years' experience).

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B. Paralegals Elizabeth Lopez-Beltrán, Sarah Mason, and Erin O'Reilly

24. Elizabeth Lopez-Beltrán, Sarah Mason, and Erin O'Reilly work or previously worked as paralegals at Lichten & Liss-Riordan, P.C.

25. I assigned work related to this case to each of these individuals, primarily in regards to communicating with class members over email and/or telephone. Our firm has received numerous inquiries from class members regarding the progress of the litigation and, since January, 2016, the status of the settlement. Based on my observations of their work and discussions with them, I estimate that, among these paralegals, they have spent at least 200 compensable hours working on this case, primarily communicating with class members.[7]

26. I believe an hourly rate of $200 for these paralegals' services rendered in class action litigation in the Northern District of California is a reasonable rate. My rate is based on (1) my knowledge of fees awarded in other cases to paralegals of approximately my experience and position within a law firm and (2) hourly rates charged by paralegals for defense counsel with similar experience. For example, according to court filings cited in Plaintiffs' Motion, paralegals at Schneider Wallace Cottrell Brayton Konecky LLP, a paralegal for a Bay Area plaintiffs-side wage and hour firm, charged a $250 hourly rate, and a paralegal at defense counsel's firm charges a $260 hourly rate; *see also Betancourt*, 2016 WL 344532, *8 (reasonable rates and paralegals and litigation support staff range from $150 to $240); *Dixon*, 2014 WL 6951260, *10 (N.D. Cal. Dec. 8, 2014) ("The court finds that a reasonable hourly rate for paralegals … is $200 per hour").

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[7] Each of the paralegals that worked on this case also performed clerical and administrative work for this case, which Plaintiffs do not include as part of the lodestar calculation for the fee request.

TOTAL LODESTAR

27. Based on the above figures, and the figures included in Mr. Carlson's declaration, I calculated our total lodestar in this litigation to be approximately $1,157,250.

CASE COSTS

28. Our firm's records show that we have expended more than $30,000 to date in out-of-pocket expenses in this litigation. These expenses include such costs as deposition costs, other discovery costs, and the costs of my travel to San Francisco. Plaintiffs do not seek to recover these costs separately.

OTHER RELEVANT INFORMATION

29. Based on the discovery done in this case, I had a very good idea of what the future of this case would have held if a settlement had not been reached: a contested motion for class certification (on which I expect Plaintiffs would have prevailed), followed by appeals and cross-appeals concerning an order granting class certification; a motion to compel individual arbitration for class members, followed by appeals and cross-appeals concerning that order; and, at some point, a trial followed by numerous post-trial motions and appeals and cross-appeals relating to the merits of the case, as well as damages issues. Accordingly, I was well-armed with the information necessary to reach a reasonable compromise in this case.

30. As discussed in my previous declaration submitted in support of Plaintiffs' Motion for Preliminary Approval of Revised Class Action Settlement, I believe this settlement is fair, adequate, and reasonable given the risks of further litigation and the strength and value of Plaintiffs' claims.

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I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on November 16, 2016, in Boston, Massachusetts.

By: */s/ Shannon Liss-Riordan*
Shannon Liss-Riordan

EXHIBIT A

SanFrancisco magazine

Uber's Worst Nightmare

Diana Kapp | Photo: Justin Kaneps | May 18, 2016

Shannon Liss-Riordan just put a $100 million dent in the sharing economy giant. She's out for a lot more than that.

The most reviled woman in Silicon Valley was badly in need of some coffee.

It was 8:40 a.m. on the Friday before Super Bowl Sunday, and Shannon Liss-Riordan had just arrived in the café of the Westin St. Francis, one arm pulling a rolling suitcase, the other carrying a still-warm laptop. Wearing a black blazer, black pants, and black leather boots, the attorney stood out among the throngs of jersey-clad football fans overtaking the lobby—an all-business peregrine falcon among so many colorful squawking parakeets. "Don't ask," she exhaled apologetically, having rolled up 25 minutes late. "You wouldn't believe how many motions we've filed in the last 48 hours."

That morning's stupor, like so many before it, would prove worthwhile. After months of drafting briefs into the wee hours, cramming for the California bar exam (necessary because she wasn't yet licensed to practice law in the state), and continuous, body-clock-wrecking cross-country flights, Liss-Riordan would soon win the largest settlement of her career: $100 million for 385,000 Uber drivers in California and Massachusetts who'd sued the company for misclassifying them as freelancers rather than employees. Ultimately, the deal, which was announced on April 21, came together secretly and hurriedly, in a flurry of meetings over two weeks in April. While legal pundits are still debating the settlement's winners and losers (the New York Times chalked up a victory for Uber; Mother Jones called it for the workers), one thing

is certain: By preempting the scheduled June 20 trial, Uber avoided having to face off against Liss-Riordan, who was eager to go for the jugular.

When I met her on Super Bowl Friday, Liss-Riordan was brimming with confidence that she could convince a San Francisco jury that Uber's drivers were not independent contractors, as the company contended, but in fact employees, highly controlled by management and due a host of protections conferred by decades of hard-fought labor battles. Now, two months later, she is almost rueful about the resolution. "I was so looking forward to this trial," she tells me on the Saturday after news of the settlement broke.

For months before its climax, Liss-Riordan's class action lawsuit had taken on bellwether status in Silicon Valley. Many onlookers believed that the ruling would finally resolve the worker-classification debate looming scythe-like over the head of the new sharing economy. Some predicted that, should Liss-Riordan prevail, the suit could cripple Uber, kill other startups in their cradles, and, hell, maybe even end the whole trendy "gig economy" sector as a whole. That the suit didn't slay Uber once and for all doesn't mean that it didn't inflict major pain on it. Asked to list the most important reforms assured by the $100 million settlement, Liss-Riordan touts the deal's ability to bolster drivers' job security; to force Uber to implement a more favorable tipping policy; and to give workers the means to organize as a group, granting them representation "akin to what unions provide."

But that's not everything she was gunning for, I suggest—drivers still won't be considered employees under the settlement. "I only settled, and I would only settle," she responds, "because I believe what we achieved is a significant achievement in the lives of drivers." (This contention was strongly disputed earlier this week by several lawyers pursuing their own class-action cases against Uber. "She has single-handedly stuck a knife in the back of every Uber driver in the country," one of them told Bloomberg.) But more to the point, Liss-Riordan says, she's far from finished with Uber and its myriad cousins. The round-one bell may have dinged, but the attorney intends to continue her crusade on behalf of workers, calling large corporations to the mat and wringing major concessions and siphoning huge sums from them when necessary.

Independent contractors, a class of worker that is expected to characterize 40 percent of all U.S. laborers by 2020, are due no benefits, guarantee of hours, or minimum wage, enabling the enterprises that employ them to keep labor costs low. But if this galaxy of free agents suddenly has to be treated like employees, with all the expensive benefits that the status conveys—well, let's just say that Silicon Valley offers Liss-Riordan a wealth of opportunity. In fact, when I called her to talk about the Uber settlement, she told me she had just selected the last of the furniture for her new Geary Street office. That's right, the first annex of Liss-Riordan's Boston-based firm will soon open in San Francisco. It'll be located right off of Union Square.

When I visited her in January in Boston's Back Bay neighborhood, where her firm, Lichten & Liss-Riordan, PC, is headquartered, Liss-Riordan stood outside her office and gestured at the businesses lining the block. Dunkin Donuts, Boston Cab, Lord & Taylor, Starbucks—at one time or another, she has sued all of them for labor violations. "Yes," she laughed, "it gets pretty hard avoiding all my companies."

Uber came into Liss-Riordan's sights in 2012 when, during a dinner in San Francisco, a friend whipped out his phone to show off a cool new app. She saw the cars crawling around his screen and immediately grokked the model—back in Boston, she was representing cab drivers who wanted the benefits allotted to employees. Seeing the glint in her eye, her friend blurted, "Don't you dare. Do not put them out of business!"

Liss-Riordan sealed a major victory on December 9 of last year, when the class action lawsuit she had filed on behalf of 8,000 California Uber drivers in 2013 was upgraded by a San Francisco judge to include basically every single Uber driver in California—more than half of the company's current U.S. workforce. Suddenly, the Wall Street Journal was calling her "one of the most influential and controversial figures in Silicon Valley," and her lawsuit was threatening the very existence of the world's largest privately held company (current valuation: approximately $68 billion, greater than Ford, Honda, and GM).

The crux of her case was whether the sharing economy habit of using contractors rather than fully vested employees violates basic labor laws. It was a question that could potentially affect the fortunes of dozens of would-be and actual unicorns in Silicon Valley, including Google Express, Postmates, Handy, Caviar, Instacart, GrubHub, DoorDash, Jolt, and Lyft, all of which Liss-Riordan is in some stage of suing. Indeed, the attorney could throw a stone at any car driving down Post Street, and chances are that she would hit a vehicle delivering food or passengers or packages for one of the new-economy businesses that she is after.

True to her nickname, Sledgehammer Shannon—bequeathed to her by the American Airlines skycaps she represented in a 2008 tip-skimming case—Liss-Riordan, 47, has been smashing up corporate America through rapid-fire class action lawsuits for a decade and a half (she currently has some 80 suits in motion). Beyond what's visible outside her firm's front door in Boston, her victims include Federal Express, Harvard University, almost every major U.S. airline, and the strip joint Centerfolds. Her newest clients are teachers for testing giant Kaplan, who claim they are being deprived of overtime pay, and stage actors working for studios "owned by people like Danny DeVito and Tim Robbins." Broadly, she is out to advance the wage-and-hour corner of labor law, basically everything related to compensation for hourly-wage Americans, who, she believes, are faring worse than ever. "I'm not feeling good about the big picture," she says. "The labor movement has obviously been in sharp decline, which has seriously impacted worker welfare. It's very important to push back against this rollback."

Over the years, Liss-Riordan's firm, which typically takes one-third of what it wins and charges nothing when it loses, has pulled in more than $200 million for its class action clients. And in the process, Liss-Riordan has achieved a kind of celebrity unseen in the legal world since Ralph Nader sued General Motors. At a three-day Department of Labor "Future of Work" symposium last December in Washington, D.C., attendees in the hallways were leaping into Liss-Riordan's orbit to take selfies with her. This is not normal for plaintiff's attorneys in the wage-and-hour racket. "She hadn't spoken on a panel," says the National Employment Law Project's Cathy Ruckelshaus, who was at the conference. "She was just recognized."

Liss-Riordan's path to legal stardom began with the renowned feminist labor activist and congresswoman Bella Abzug, who hired her soon after she graduated from Harvard. She had no special connections to Abzug, or to anyone else, but simply copied the number of every New York–based women's organization out of the phone book and started dialing. "I loved [Abzug's] big ideas, and her big hats," she reminisces. The office photographs of Abzug marching in union protests moved Liss-Riordan. "It was inspiring to see her have an idea and make it happen," she says. "That's what made me desire law school, so I could do something bigger."

Her progressive leanings, though, had been baked in long before that. The progeny of socialists (her maternal great-grandfather organized unions with Samuel Gompers), Shannon Liss grew up in Meyerland, Texas, the daughter of a Reagan Democrat dad and a liberal mother. At age five she professed that when she married, she would hyphenate her last name "because it was the only way that made any sense." (Her husband and three children all use Liss-Riordan.) She excelled in math and science, starting a math club in high school that wound up being voted "most organized in the country." ("I never knew there was such a contest," she says. "I was just doing my thing.")

In 1992, she left Abzug to stage a conference featuring Anita Hill, fresh from the carnival of the Clarence Thomas harassment hearings. Through this work, she met Gloria Steinem, who introduced her to Rebecca Walker, a Yale student whose treatise on modern-day feminism, "Becoming the Third Wave," had just appeared in Ms. magazine. Over burritos in the Village, the pair hashed out how to turn Walker's ideas into action. First up was Freedom Summer 1992, a cross-country bus tour to register women voters. Hillary Clinton blew them off after committing to meet the bus in Little Rock, which partly explains why Liss-Riordan is now feeling the Bern. Ultimately, though, she yearned to fix the system from within, while Walker wanted to stay outside of it. Laws needed to be changed. People needed to be held accountable. So in 1993, Liss-Riordan headed to Harvard Law School to work on just that.

She opened Lichten & Liss-Riordan, PC, in 2009, breaking off, along with one of her mentors, Harold Lichten, from an established labor-law firm. "I work for her now," laughs Lichten, a messy professor type who, at 18, quit the University of Pennsylvania basketball team rather than get the required crew cut. Clearly, the two bond over heeding their first principles. Liss-Riordan bought a Cambridge pizza joint in 2012 after she won a back-pay lawsuit for the employees, which helped push the restaurant into bankruptcy. After purchasing it, she made most of the employees part-owners and renamed the pizzeria the Just Crust.

The day I shadowed her in Boston, Liss-Riordan was a whirl of motion. At one point, while we were chatting in her office, the reception desk buzzed and she disappeared down an exposed-brick stairwell hung with vintage photos of workers—seamstresses, a 1930s-era stripper. She returned with a redheaded woman in jeans, whom she motioned to sit at the conference table.

"I was very interested in what you sent me," Liss-Riordan said, plopping down beside her. The woman was a massage therapist at Harvard University's Center for Wellness. "Were you able to do any snooping around to see if there were other pockets [of contractors] around campus with similar setups?" the attorney asked. The woman said not yet. Liss-Riordan followed with a run of questions: How many hours do you work? Thirty a week. Who sets your schedule? Management. Who buys your equipment? They do. Do you pay for your own insurance? Yes. If there was a client you had before that you didn't like, could you say you'd rather not take them again? The woman shook her head: No way. Liss-Riordan glanced through the documents the

woman had slid her. “There is a good argument that you have been misclassified as a contractor,” she said, then suggested they go after sick and holiday pay, and perhaps benefits like free Harvard courses.

“Didn’t you go to Harvard?” the woman inquired timidly. “I read that on your website.” Liss-Riordan responded with a laugh: “I’ve sued Harvard twice before. They gave me two degrees, so I’m not sure they appreciate it.” (She roomed there with YouTube CEO Susan Wojcicki.) The woman asked if she would lose her job. “I’m scared,” she said. “No, no way,” Liss-Riordan retorted. “It’s scary, but you are doing the right thing. Actually, that it’s Harvard protects you. They know they can’t get away with misbehaving.”

Over the years, Liss-Riordan has sought employee status for truck drivers, call-center workers, home cleaners, even exotic dancers. “It’s just the next logical extension to take it into these on-demand jobs, where it’s pretty clear these low-wage workers are not running their own businesses,” says the National Employment Law Project’s Ruckelshaus, who has worked with Liss-Riordan on several cases. A lawyer defending one of Liss-Riordan’s suits spins her MO in another way: “She’s found this tiny niche, and now she’s just exploiting the hell out of it.”

Indeed, her power-to-the-worker rhetoric flies in the face of many of Silicon Valley’s prized principles and has earned her some well-funded enemies. The very labor laws she defends, says veteran VC Len Baker of Sutter Hill Ventures, are “encrusted with so much crap they just really bog us down.” Sam Altman, who heads the prolific startup hatchery Y Combinator, believes that “individual flexibility and freedom” should trump current laws that tie employees to employer. “I definitely think it’s bad to make everyone de facto full-time employees,” he says. The whole point of the on-demand economy, maintains Eric Goldman, director of the High Tech Law Institute at the Santa Clara University School of Law, “is to allow more granular ways of people providing their services.” This new, frictionless, seamless way of parsing tasks and connecting available labor to paying work, says Baker, is “just much more efficient economically.”

To all this, Liss-Riordan simply responds: Bogus. She finds the cult of contract labor “really kind of scary, a great loophole” that’s allowing corporations to screw the little guys. In her view, companies like Uber blatantly skirt minimum-wage and overtime-pay rules, which have been in place since the New Deal. By classifying drivers as contractors, Uber can fire them at will, have them run down their own cars and tires while avoiding having to reimburse them the IRS-mandated 57.5 cents (now 54) per mile for wear and tear, and sidestep mandates for workers’ compensation and health insurance. The legal framework behind this “might be one of the sharpest attacks on workers we’ve seen in a long time,” Liss-Riordan says. “The rhetoric is, ‘But oh, this is good for the worker—be this on-demand worker, and you’ll have this freedom.’ But they are not their own bosses. Technology has created more extreme ways that employers can take advantage of workers. They are tethered to their phone. There are constant ratings, surge incentives, and data tracking their behavior at times, with more pull than a human manager would have.”

Silicon Valley, naturally, would like to come up with another way to get around this existential divide. “The best thing would be a new categorization” for gig-economy workers, says Altman, “because these people really lie somewhere between traditional notions of contractor and employee.” But Liss-Riordan has a standard retort for this third-category concept: “Why is there this call for dismantling these protections that have been fought for over decades in order to

help a $50 billion company get richer, while the drivers are making less and less and paying Uber's business expenses?" To her, the notion that flexibility is incompatible with full-time employment is a cop-out. "Plenty of companies let workers set their own schedules," she says. "If it costs Uber more to make everyone employees, they should just take a bigger cut and at least be transparent about all this."

Back in December, in U.S. District Court Judge Edward M. Chen's domain high above the city, Liss-Riordan strenuously objected to Uber's move of emailing every driver a new contract, which had to be signed for drivers to continue working. Buried within the fine print was a clause that rendered signers ineligible to join any future class action lawsuits, instead mandating arbitration to resolve grievances. Liss-Riordan finds it infuriating, if somewhat vindicating, that companies have turned to such clauses as a way of dodging responsibility. "They didn't even deign to talk to class counsel before sending out a communication to my clients," she said to the judge. "I would urge the court to consider the arguments that Uber should not be able to curtail liability. Not on the 14th page of an email on an iPhone." Judge Chen ruled in her favor, overriding Uber's arbitration agreement and allowing drivers to file suit as a class.

Arbitration clauses like the one Judge Chen struck down are increasingly being used by companies as a legal end-around. The Supreme Court has strengthened the power of these clauses in recent years, on the grounds that individual mediations are a more efficient means of resolving disputes. But to Liss-Riordan, the shift serves only to protect big business: "I just think it's reprehensible that the Supreme Court has allowed all these companies that are blatantly breaking the law to protect themselves."

It was Uber's arbitration clause that ultimately sent Liss-Riordan's suit careening to a settlement. When the U.S. Court of Appeals for the Ninth Circuit, on April 5, agreed to hear Uber's appeal, "it was not a good sign at all," she says. If Judge Chen's decision to override the arbitration agreement was reversed by the Ninth Circuit, her clients could be left high and dry. "Uber made it known they would appeal this all the way to the Supreme Court if they could," she says. And given the deadlocked state of the court at the moment, the odds of a 4–4 decision leaving the lower court's ruling in place seemed too risky. "There's just a lot of uncertainty," she says.

During our meeting at the Westin, I asked Liss-Riordan if she viewed her lawsuits as primarily having a policing function on bad-acting companies like Uber, or if she believed that she had a shot at challenging the constitutionality of arbitration clauses. She was circumspect. "There are so many ways that companies can evade the laws," she said. "If you chase them in litigation, they can just keep changing the arbitration clause a little bit. For them, they are like this magic bullet."

Using lawsuits, Liss-Riordan is trying to combat these corporate shenanigans by bringing old-fashioned collective bargaining to the new economy. And increasingly, other jurisdictions are taking a similar approach. Seattle just passed a law allowing Uber drivers to organize, and new legislation aimed at enabling gig workers to bargain collectively was recently introduced before the California legislature. (The bill was pulled before a final vote.) The Teamsters are now reportedly attempting to create an independent drivers' "association" akin to a union. "Lawsuits like hers are already having an impact," says Arun Sundararajan, professor at the New York University Stern School of Business and the author of The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism. The fundamental benefit of these

lawsuits, he says, is in “getting us on a path toward a better solution to funding our social safety net."

Liss-Riordan is never one to relent unless forced. Says her partner Lichten, admiringly, “She’s like a pit bull with a Chihuahua in her mouth.” Among the concessions Uber had to make to reach the April settlement was forgoing its practice of firing drivers without cause. “That’s a pretty big deal,” says Santa Clara University law professor Goldman. What’s more, drivers will no longer be deactivated for a low rate of pickups, will receive a warning before losing their job, and can contest a termination before a panel of their peers. An even bigger deal, Liss-Riordan says, was convincing the judges in both her Uber and Lyft cases to deny summary judgment. What this means is that companies will not be able to do away with lawsuits of this nature quickly and painlessly. “They were saying that any company that finds itself with a lawsuit for misclassification can find itself in front of a jury. And that’s big,” she says. “It’s a big price to put an end to the case, and it will continue to give companies pause before they play fast and loose with these rules.”

There is evidence of this already. On-demand players such as Instacart, Shyp, Zirtual, and Honor have recently shifted course, reclassifying some of their workers as employees. “Everyone who wants to be Uber of the next thing—they’ve been watching these battles,” Liss-Riordan says. And, she is quick to point out, Uber may be paying $100 million to make this suit go away, but it hasn’t gotten the employment-classification monkey off its back. “No court has decided here whether these drivers are employees or independent contractors,” she says. At multiple times during our phone conversation in April, Liss-Riordan returned to her favorite point: “This was a settlement. Nothing has been decided.”

Before hanging up, I pushed her on my last question: What is your next chess move against Uber? Is this fight over? She hemmed and hawed over what to reveal publicly, before finally relenting. “Oh, OK,” she said, grinning audibly on the other end of the line. “You can say I’m not done with this company.”

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EXHIBIT B

Los Angeles Times

Meet the attorney suing Uber, Lyft, GrubHub and a dozen California tech firms

Attorney Shannon Liss-Riordan says too many Silicon Valley firms flout labor laws at the expense of low-wage workers (Aram Boghosian / For the Times)

By **Tracey Lien** • **Contact Reporter**

JANUARY 24, 2016, 10:19 AM | SAN FRANCISCO

Shannon Liss-Riordan made a name for herself defending workers against FedEx, American Airlines and Starbucks in wage and hour lawsuits.

If you're a business executive and she's knocking at your door, it probably means your company has been accused of doing something few Americans have much tolerance for: ripping off the little guy.

So, if you're an executive in Silicon Valley — where businesses are lauded for disrupting the old way of doing things, tearing down the hierarchies of the past, making the world a better place — you'd think you'd get a pass, right?

"

It just doesn't make a lot of sense to me why we should throw all these worker protections out the window to help a $50-billion company like Uber.

- Shannon Liss-Riordan

Hardly. After slapping on-demand transportation company Uber with a class-action lawsuit over driver misclassification in 2013, the Boston lawyer has been busy, filing a dozen similar lawsuits against California tech firms.

Silicon Valley companies may think they're a breed apart, but to Liss-Riordan, too many of them are too similar to the big corporations she's fought in the past, companies she says flout labor laws for profit at the expense of low-wage workers.

Where some see Silicon Valley innovation, Liss-Riordan sees an old power struggle, wrapped in an app.

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Liss-Riordan hasn't kept track of how many miles she's logged between Boston and San Francisco since she started litigating against companies in the on-demand economy. But she's now treated as a regular at the federal courthouse in San Francisco, where she's often seen dragging a roller bag of legal documents in and out of the towering gray building.

An opposing attorney in one of her cases saw her around so much he challenged whether she should be allowed to file so many lawsuits in the state when she isn't a member of the State Bar of California.

If he'd hoped to deter her, it didn't work. Liss-Riordan responded by registering to take the California bar exam in February. Once admitted, she plans to open an office in San Francisco.

Liss-Riordan carries herself more like an activist than a lawyer. At first, she comes off as approachable, friendly even. But her partner at Boston law firm Lichten & Liss-Riordan, Harold Lichten, describes her as having the heart of a grass-roots organizer with the tenacity of "a pit bull with a Chihuahua in its mouth."

She knows her stuff and can get really academic, but without making people feel dumb.

Opponents have accused her of being opportunistic and taking advantage of young companies who don't know legal rules. She counters by saying that the cases she's filing aren't about semantics. They're about people getting ripped off.

The on-demand economy — driven by smartphone apps with which people can instantly hail a ride, order a meal or book a house cleaner — is booming in California. Ride-hailing companies such as Uber and Lyft have achieved multibillion-dollar valuations from a business model that uses independent contractors to fulfill a core function of their businesses. Although they compete directly against the taxi industry, they've labeled themselves "technology companies" — intermediaries that simply connect willing workers with paying customers.

Which would be fine, Liss-Riordan said, if they were also treating their workers as independent contractors.

In the lawsuits she filed against Uber, Lyft, food-delivery companies DoorDash and GrubHub, and on-demand laundry service Washio, she alleges that these firms exert the kind of control that employers would have over employees — without providing any of the benefits employees, by law, are entitled to.

In response to her efforts, these companies have hired legal big guns. Uber, for example, hired Gibson Dunn, a global law firm routinely recognized by industry groups as one of the top litigators in America.

There's a good reason they're fighting so hard. A Liss-Riordan victory could put companies such as Uber and GrubHub on the hook for costs that would eat deeply into their profit margins. Labor experts estimate that their cost of doing business would increase by 30% to cover payroll taxes, unemployment insurance and workers' compensation. Costs would rise even more with overtime payments and — particularly in the Lyft and Uber cases, in which drivers use their own vehicles and pay for their own gas — expense reimbursements.

Could big firms such as Uber and Lyft afford it? Liss-Riordan believes so. But in Silicon Valley, where sky-high profit margins lead to enormous company valuations that could translate into staggering returns on investment, any increase in the cost of doing business poses a threat. After all, Uber didn't become the world's most highly valued private company by paying for its drivers' gas.

If the companies are to be believed, any significant changes to their business model would fall on the drivers. The Ubers and Lyfts of the world argue that recognizing workers as employees would come at the cost of flexible working hours, which is the reason many people sign up to drive for an on-demand service.

Liss-Riordan huffs at the notion. Smaller companies such as Shyp (on-demand shipping), Munchery (on-demand meal delivery) and Luxe Valet (on-demand valet parking) have been able to do it while retaining some flexibility, although their workers now have scheduled shifts.

"These companies just don't want to do it because it's going to cost more," she said. "And there's nothing stopping them from giving their workers flexible schedules."

She almost has to fight back an eye roll when she hears the on-demand economy's defense.

"It just doesn't make a lot of sense to me why we should throw all these worker protections out the window to help a $50-billion company like Uber when the workers who are actually doing the work are struggling and need those protections," she said.

She speaks with an urgency. As she delivers each statement, one can imagine a concurrent thought bubble floating above her head in which she grabs people by the shoulders and shakes them: “Can’t you see? Can’t you see why this matters?”

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Liss-Riordan has brought this kind of fight to big and small players alike. She’s taken on Starbucks and American Airlines (both were accused of skimming tips from workers) and sued a Massachusetts strip club and a pizza chain (the former classified its dancers as independent contractors but expected them to share their tips with managers and bouncers. The latter was a case in which kitchen staff members were forced to give back their overtime wages or lose their jobs).

Her track record is strong: In Massachusetts, she’s won worker-misclassification and tip cases against Starbucks and FedEx. Her lawsuit against the strip club triggered a wave of similar lawsuits across the state. After her lawsuit drove the pizza chain out of business, she bought one of the restaurants herself and turned it into a profit-share pizza joint.

“Overall she really cares about workers and advancing the law for workers,” said Lichten, who has known her for 20 years. “She’s very good about rolling up her sleeves and meeting with clients to explain to them what’s going on.”

There’s big money to be made in this area, of course. Class-action lawsuits can lead to hefty payouts, with lawyers walking away with up to a third of what their clients are awarded. In a recent class action over worker misclassification involving FedEx Ground (Liss-Riordan was not the plaintiff’s attorney), the company announced a $228-million settlement with 2,300 California-based drivers.

Liss-Riordan doesn’t charge an upfront fee — so if she doesn’t win, she gets nothing.

Her critics have been blunt, accusing her of taking advantage of confusing and arcane laws to reap a windfall for her clients and her firm.

“I have a lot of respect for Shannon, but I do see this cottage industry she's created around the tip statute as becoming abusive toward employers,” attorney Ariel D. Cudkowicz, who defended several Liss-Riordan-led lawsuits, told the Boston Globe in 2008.

Others have pointed out that sometimes companies have good intentions but simply misinterpret the law.

Before they get the chance to figure it out, lawsuits like Liss-Riordan’s can “knock them out of business,” said attorney Robert Berluti, who went up against Liss-Riordan in the Massachusetts stripper case.

Some of her cases have taken more than a decade to resolve. In 2011, she took on a case representing a skycap who was fired in retaliation for participating in a class-action lawsuit; that was a five-year process.

“She kept fighting without getting paid,” said her former client in the skycap case, Joe Travers, 50. According to Travers, Liss-Riordan continued to represent him even when the court reversed his victory. She recently won an appeal on his behalf.

“It’s amazing someone would continue to fight for you even when there might not be anything for them in the end,” he said. “She just doesn’t like people taking advantage of other people.”

Liss-Riordan doesn’t seem fazed by her critics or the size of the industry she’s taking on. In her eyes, no company — innovator, disruptor, whatever else they want to call themselves — deserves a free pass.

When asked whether she’s been known to be intimidated by anyone — a company, an industry, another law firm — Liss-Riordan’s former colleague, attorney Nicole Horberg Decter, had this to say: “Ha-ha-ha!”

Then, after a moment: “I don’t think of Shannon as someone who is intimidated by anything. When she takes on an issue, she’s not taking on a company, she’s taking on an industry. I think that’s very powerful. So, no, she is not intimidated at all.”

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EXHIBIT C

THE WALL STREET JOURNAL.

Meet the Boston Lawyer Who's Putting Uber on Trial

Shannon Liss-Riordan has become one of the most influential—and controversial—figures in Silicon Valley

Boston attorney Shannon Liss-Riordan represents drivers who say Uber has illegally classified them as freelancers and not employees. PHOTO: JOSH ANDRUS FOR THE WALL STREET JOURNAL

By
LAUREN WEBER and **RACHEL EMMA SILVERMAN**
Nov. 4, 2015 11:47 a.m. ET

BOSTON—With a raft of lawsuits challenging Uber Technologies Inc. and other startups that summon workers at the touch of an app, attorney Shannon Liss-Riordan has become one of the most influential—and controversial—figures in Silicon Valley.

In her main suit against Uber, Ms. Liss-Riordan represents drivers who say the ride-service company has illegally classified them as freelancers and not employees, barring them from reimbursements for their expenses, among other protections. She is also suing Lyft, Postmates and others over the labor model on which they depend. The legal battles put Ms. Liss-Riordan, who also owns a pizzeria with her husband, at the center of the debate over the status of on-demand workers in the U.S.

The closely watched Uber case, which continues in federal court in San Francisco on Wednesday, won class-action status in September and could go to trial as early as next year. A final verdict against Uber in this case could change how the firm does business with its drivers and send shocks through the on-demand economy.

Uber's lawyers have argued that it is a software platform connecting car owners with people seeking rides, and not the manager of a fleet of drivers. The $51 billion venture-backed company has no plans to settle and is willing to fight the case to the Supreme Court if necessary, according to people familiar with its legal strategy.

In Ms. Liss-Riordan, Uber faces a tenacious opponent who has fought hard to enforce worker protections that, she says, many employers would like to erode, although some attorneys and other advocates question whether her pursuit of that principle always serves her plaintiffs.

Shelby Clark, CEO of Peers, which provides services for independent contractors (such as reviews of what it's like to work for an on-demand firm), said he is glad Ms. Liss-Riordan has drawn attention to the ambiguous status of some workers, but added, "I fear that more harm than good can come from these lawsuits. I don't necessarily think she's speaking on behalf of the average worker."

Ms. Liss-Riordan counters that there's no reason Uber can't offer drivers flexibility—the prime benefit Uber and other on-demand firms pitch to potential workers—while still providing them basic labor protections. "That's a false choice," she said.

She has logged victories in the field of wage and hour law, bringing employers including Starbucks Corp. and her alma mater, Harvard University, into compliance with state

and federal laws governing workers' pay and employment status. Strategically using each ruling to build the next, her cases have targeted FedEx Corp., cleaning firms, and a strip club called King Arthur's Lounge over the classification of their workers.

With the suits against on-demand startups, her goal is nothing less than shaping the definition of employment in the fast-evolving digital economy. Although she isn't closed to the prospect of a settlement, "I would like to play this out and make some law," she said.

She first learned about Uber in 2012, during dinner with a friend in San Francisco. Her companion pulled out his phone and gushed to her about an app "that had changed his life," she recalled.

"I could see instantly what was going on" in terms of the labor model, she said. Recognizing the glint in her eye, Ms. Liss-Riordan's companion said, "you're going to put this company out of business, aren't you?"

That hasn't happened, and Ms. Liss-Riordan said she doesn't think the reclassification of drivers would threaten Uber's existence. But friends and associates cite her ferocious work ethic and near-evangelical belief in her clients' claims as assets in high-stakes battles. She extends cases for years even after her battle seems to be lost, and several times has petitioned the Supreme Court—so far unsuccessfully—to take up legal questions that circuit courts decided against her.

Her doggedness is already manifest in the Uber case. After the company submitted 400 statements from drivers who said they preferred the flexibility of gig labor, Ms. Liss-Riordan directed a paralegal to contact around 50 of those same drivers, most of whom said that they would like to be employees if it meant having their expenses reimbursed.

"When the opposing counsel is popping open their champagne, thinking a case is over, she comes back at them. She's indefatigable. And it drives management firms crazy that she won't give up," said her law partner, Harold Lichten.

Her fervor can raise eyebrows among opposing counsel. "Sometimes she's so inflamed about the issue and the people she represents that she won't come to settlement even when that's in her and

her clients' best interest," said Boston lawyer Ellen Kearns of Constangy, Brooks, Smith & Prophete LLP, who has squared off against Ms. Liss-Riordan.

The pizzeria was also the product of a crusade. In 2010 she sued a pizza chain and its owners for siphoning employee paychecks to pay a fine for federal labor violations. The chain filed for bankruptcy two years later, and Ms. Liss-Riordan wound up buying the Cambridge location, called The Upper Crust, at auction for $220,000. Among her first acts as restaurateur, she set up a plan for sharing profits with the pizzeria's employees and re-christened it The Just Crust.

The Uber case will be a key test of Ms. Liss-Riordan's belief that New Deal-era labor laws are adequate to respond to the emergence of an on-demand economy.

It applies only to California workers, but Ms. Liss-Riordan has set her sights further. "I'm hoping that if we're successful, it could then be expanded nationwide," she said.

Write to Lauren Weber at lauren.weber@wsj.com and Rachel Emma Silverman at rachel.silverman@wsj.com

EXHIBIT D

An ALM Publication

THE AMERICAN LAWYER | THE AM LAW LITIGATION DAILY

Litigator of the Week: Shannon Liss-Riordan of Lichten & Liss-Riordan

By Scott Flaherty

April 28, 2016

For some entrepreneurs and investors in Silicon Valley, plaintiffs lawyer Shannon Liss-Riordan is Public Enemy No. 1. That's not likely to change now that Uber Technologies Inc. has agreed to pay at least $84 million to settle her most high-profile case so far.

But like it or not, the lawyer from Boston's Lichten & Liss-Riordan has managed to shake up the so-called sharing economy—and she isn't going away.

The case against Uber challenged the ride-sharing company's policy of treating drivers as independent contractors instead of employees. The April 21 agreement to end the case would resolve claims brought by a certified class of California Uber drivers, and would also resolve a parallel case that Liss-Riordan brought in Massachusetts.

Still, the settlement doesn't call for Uber to reclassify its drivers as full-fledged employees. The deal comes after the U.S. Court of Appeals for the Ninth Circuit agreed earlier this month to consider whether the case warranted class action status, threatening to undermine the drivers' momentum in the litigation. It also comes after a federal judge rejected a settlement in a similar lawsuit that Liss-Riordan led against Uber competitor Lyft Inc. In that case, a judge found that a proposed $12.25 million settlement didn't provide enough benefit to Lyft drivers.

Jason Doiy / The Recorder

Shannon Liss-Riordan

Although still subject to court approval, the Uber settlement could increase from a guaranteed $84 million to as much as $100 million, if Uber goes public or if it's acquired within the next year at a valuation of at least 150 percent of its current valuation of roughly $62.5 billion.

With Liss-Riordan already established as a divisive figure—media outlets have alternately dubbed her "Uber's worst nightmare," lauded her as an "avenging angel" for workers and derided h er as a shakedown artist—the settlement has brought even more attention.

The Wall Street Journal came down especially hard, likening Liss-Riordan to a bank robber in a scathing editorial about the agreement, and noting that it could provide up to $25 million to Liss-Riordan's firm to cover legal fees. But plaintiffs lawyers also had their own critiques, including that the settlement was little more than a slap on the wrist for Uber, and that it failed to address the overuse of independent contractors in the sharing economy.

Liss-Riordan, who started her firm in 2009 alongside partner Harold Lichten, has built a reputation for representing low-wage workers, especially those relying on tips for much of their income. She has acknowledged that the Uber settlement isn't perfect, but she told The Recorder that it "provides significant benefits—both monetary and nonmonetary—that will improve the work lives of the drivers and justifies this compromise result.

"If we had not settled, there were some serious risks that all we have fought for—and have achieved—could be taken away," Liss-Riordan said. "We balanced this risk in deciding what would be a fair resolution."

While the key issue of the drivers' legal status remains unresolved, some class members stand to receive significant payouts under the deal, with others getting as little as $12, according to some reports. On Thursday, Liss-Riordan told us that by her estimates, the most active Uber drivers in the class could be in line for an average payout of around $8,000.

Uber also agreed to make policy changes that would likely benefit drivers. The company must set up an appeal process for terminated drivers; allow for active drivers to solicit tips from passengers; and make it clear to passengers that tips aren't automatically included in what they pay for a ride. The settlement also establishes a drivers' association that would allow drivers to take grievances to Uber management.

And, while the case fell short of forcing Uber to abandon its policy of treating its drivers as independent contractors, Liss-Riordan pioneered arguments that observers say could put the entire sharing economy on alert, and provide a template for future employment disputes.

"Litigation sets an example for other companies," Liss-Riordan told us on Thursday. In the wake of the Uber case, she said, she's seen a long list of other companies in the sharing economy that have "gone the other way" on the worker classification question.

"It has deterred a lot of companies from classifying workers as independent contractors," she said.

Liss-Riordan also challenged critics of the Uber settlement, saying that they'd be hard-pressed to find an example of any similar settlement that actually forced a company to reclassify its workers. And, she pointed out, the agreement doesn't prevent another group of Uber drivers—not covered by the settlement—from challenging their classification if the company continues to treat them as contractors.

"Nothing is letting Uber off the hook in the future," she said.

At the very least, Liss-Riordan has put companies in the sharing economy on notice. And they're likely to be seeing more of her: Next month, Lichten & Liss-Riordan plans to open a San Francisco office.

EXHIBIT E

Mother Jones

Meet "Sledgehammer Shannon," the Lawyer Who Is Uber's Worst Nightmare

—Hannah Levintova on Wed. December 30, 2015 6:00 AM PDT

Miriam Migliazzi and Mart Klein

In early 2012, on a visit to San Francisco, Shannon Liss-Riordan went to a restaurant with some friends. Over dinner, one of her companions began to describe a new car-hailing app that had taken Silicon Valley by storm. "Have you seen this?" he asked, tapping Uber on his phone. "It's changed my life."

Liss-Riordan glanced at the little black cars snaking around on his screen. "He looked up at me and he knew what I was thinking," she remembers. After all, four years earlier she had been christened "an avenging angel for workers" by the *Boston Globe*. "He said, 'Don't you dare. Do not put them out of business.'" But Liss-Riordan, a labor lawyer who has spent her career successfully fighting behemoths such as FedEx, American Airlines, and Starbucks on behalf of their workers, was way ahead of him. When she saw cars, she thought of drivers. And a lawsuit waiting to happen.

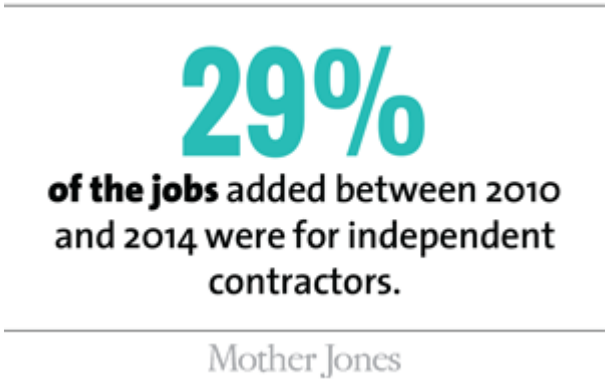
Four years later, Liss-Riordan is spearheading class-action lawsuits against Uber, Lyft, and nine other apps that provide on-demand services, shaking the pillars of Silicon Valley's much-hyped sharing economy. In particular, she is challenging how these companies classify their workers. If she can convince judges that these so-called micro-entrepreneurs are in fact employees and not independent contractors, she could do serious damage to a very successful business model—Uber alone was recently valued at $51 billion—which relies on cheap labor and a creative reading of labor laws. She has made some progress in her work for drivers. Just this month, after Uber tried several tactics to shrink the class, she won a key legal victory when a judge in San Francisco found that more than 100,000 drivers can join her class action.

"These companies save massively by shifting many costs of running a business to the workers, profiting off the backs of their workers," Liss-Riordan says with calm intensity as she sits in her Boston office, which is peppered with framed posters of Massachusetts Sen. Elizabeth Warren. The bustling block below is home to two coffee chains that Liss-Riordan has sued. If the Uber case succeeds, she tells me, "maybe that will make companies think twice about steamrolling over laws."

"Uber is obviously a car service," she says, and to insist otherwise is "to deny the obvious."

After graduating from Harvard Law School in 1996, Liss-Riordan was working at a boutique labor law firm when she got a call from a waiter at a fancy Boston restaurant. He complained that his manager was keeping a portion of his tips and wondered if that was legal. Armed with a decades-old Massachusetts labor statute she had unearthed, Liss-Riordan helped him take his employer to court—and won. "This whole industry was ignoring this law," Liss-Riordan recalls. Pretty quickly, she became the go-to expert for employees seeking to recover skimmed tips. And before she knew it, her "whole practice was representing waitstaff."

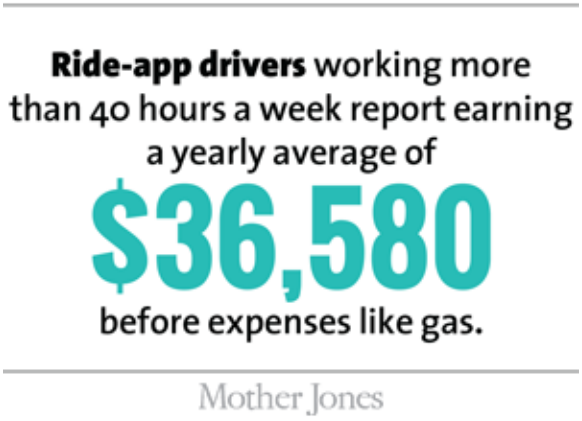
In November 2012, she won a $14.1 million judgment for Starbucks baristas in Massachusetts. After a federal jury ordered American Airlines to pay $325,000 in lost tips to skycaps at Boston's airport, one of the plaintiffs dubbed her "Sledgehammer Shannon." When one of her suits caused a local pizzeria to go bankrupt, she bought it, raised wages, and renamed it The Just Crust.



Liss-Riordan estimates that she's won or settled several hundred labor cases for bartenders, cashiers, truck drivers, and other workers in the rapidly expanding service economy. Lawyers around the country have sought her input in their labor lawsuits, including one that resulted in a $100 million payout to more than 120,000 Starbucks baristas in California.

(The ruling was later overturned on appeal.) In a series of cases that began in 2005, she has won multimillion-dollar settlements for FedEx drivers who had been improperly treated as contractors and were expected to buy or lease their delivery trucks, as well as pay for their own gas.

Her Uber offensive began in late 2012, when several Boston drivers approached her, alleging that the company was keeping as much as half of their tips, which is illegal under Massachusetts law. Liss-Riordan sued and won a settlement in their favor. But while looking more closely at Uber, she confirmed the suspicion that had popped up at that dinner in San Francisco: The company's drivers are classified as independent contractors rather than official employees, meaning that Uber can forgo paying for benefits like workers' compensation, unemployment, and Social Security. Uber can also avoid taking responsibility for drivers' business expenses such as fuel, vehicle costs, car insurance, and maintenance.



In August 2013, Liss-Riordan filed a class-action lawsuit in a federal court in San Francisco, where Uber is based. Her argument hinged on California law, which classifies workers as employees if their tasks are central to a business and are substantially controlled by their employer. Under that principle, the lawsuit says, Uber drivers are clearly employees, not contractors. "Uber is in the business of providing car service to customers," notes the complaint. "Without the drivers, Uber's business would not exist." The suit also alleges that Uber manipulates the prices of rides by telling customers that tips are included—but then keeps a chunk of the built-in tips rather than remitting them fully to drivers. The case calls for Uber to pay back its drivers for their lost tips and expenses, plus interest.

Uber jumped into gear, bringing on lawyer Ted Boutrous, who had successfully represented Walmart before the Supreme Court in the largest employment class action in US history. Uber tried to get the case thrown out, arguing that its business is technology, not transportation. The drivers, the company contended, were independent businesses, and the Uber app was simply a "lead generation platform" for connecting them with customers.

"Why should we tear apart laws that have been put in place over decades to help a $50 billion company at the expense of workers?"

Techspeak aside, Liss-Riordan has heard all this before. When she litigated similar cases on behalf of cleaning workers, the cleaning companies claimed they were simply connecting broom-pushing "independent franchises" with customers. When she won several landmark cases brought by exotic dancers who had been misclassified as contractors, the strip clubs

argued that they were "bars where you happen to have naked women dancing," Liss-Riordan recounts with a wry smile. "The court said, 'No. People come to your bar *because* of that entertainment. Adult entertainment. That's your business.'"

Uber's argument is pretty similar to that of the strip clubs. "Uber is obviously a car service," she says, and to insist otherwise is "to deny the obvious." An Uber spokesperson wouldn't address that characterization, but said that drivers "love being their own boss" and "use Uber on their own terms: they control their use of the app, choosing when, how and where they drive."

Some observers have suggested creating a new job category between employee and contractor. But Liss-Riordan is tired of hearing that labor laws should adapt to accommodate upstart tech companies, not the other way around: "Why should we tear apart laws that have been put in place over decades to help a $50 billion company like Uber at the expense of workers who are trying to pay their rent and feed their families?"

For the most part, courts have sided with her. Last March, a federal court in San Francisco denied Uber's attempt to quash the lawsuit, calling the company's reasoning "fatally flawed" (and even citing French philosopher Michel Foucault to make its point). In September, the same court handed Liss-Riordan and her clients a major victory by allowing the case to go forward as a class action. The judge in the Lyft case has called the company's argument—nearly identical to Uber's—"obviously wrong." Last July, the cleaning startup HomeJoy shut down, implying that a worker classification lawsuit filed by Liss-Riordan was a key reason.

Meanwhile, other sharing-economy startups are changing the way they do business. The grocery app Instacart and the shipping app Shyp—Liss-Riordan has cases pending against both—have announced they will start converting contractors to full employees. Liss-Riordan says that's her ultimate goal: to protect workers in the new economy, not to kill the innovation behind their jobs. "This is not going to put the Ubers of the world out of business," she says.

One of her opponents has played a more creative offense. Last fall, the laundry-delivery app Washio convinced a judge that Liss-Riordan had no right to practice law in California. Liss-Riordan easily could have relied on a local lawyer to head the case, but instead she signed up to take the California bar exam in February. "Their plan kind of backfired," she says. "I expect they'll be seeing more of me, rather than less."

EXHIBIT F

The Boston Globe Business

Lawyer fights for low-wage workers' rights

Shannon Liss-Riordan has built her reputation representing those who say they were wronged

By Katie Johnston | GLOBE STAFF DECEMBER 23, 2012

SUZANNE KREITER/GLOBE STAFF

Harvard educated Shannon Liss-Riordan had wanted to be a civil rights attorney.

Strippers denied wages and tips. Pizza makers swindled out of overtime pay. Cleaning ladies, taxi drivers, and truckers forced to pay franchise fees while being treated like hourly employees.

From a 20th-floor office with sweeping views of Beacon Hill, Shannon Liss-Riordan and

her team of lawyers have represented them all. In the three and a half years since Lichten & Liss-Riordan opened its doors, the law firm has won tens of millions of dollars for low-wage workers, often immigrants, who claim to have been wronged by their employers.

In the process, Liss-Riordan has won admiration as a champion of blue-collar workers and a reputation as a tough litigator putting entire industries on notice for breaking wage and hour laws. She is also seen by critics as a media-hungry attorney who uses obscure laws to scare companies away from Massachusetts — and reaps millions of dollars while her low-wage clients collect a few thousand apiece.

Liss-Riordan says she and her firm are doing important work, giving employees the ability to fight back against huge companies that are mistreating their workers in order to save money.

“There are just so many ways that employers take advantage of low-wage workers,” she said. “Especially among immigrant workers, they think they’re not going to step up and challenge abuses. They think they can take advantage of them because they don’t speak English. And it has a depressing effect on the whole labor force.”

Liss-Riordan, 43, had planned to be a civil rights attorney until she found her calling in employment litigation. The Harvard-educated lawyer and her partner, Harold Lichten, focus on class-action lawsuits involving independent contractor and tips violations. The firm’s nine lawyers have represented thousands of clients, who include waiters, FedEx drivers, cable installers, call center employees, skycaps, and janitors.

Among their biggest victories: a $14 million judgment against Starbucks Corp. for violating a Massachusetts law that prevents supervisors from sharing in baristas’ tips.

The docket

A sample of employment lawsuits filed by Lichten & Liss-Riordan.

2006

AMERICAN AIRLINES

Complaint Airline's $2 charge per bag for curbside check-in, which passengers mistook for skycap tips.
Outcome A $325,000 award to nine skycaps was reversed by federal appeals court; a national class action is pending.

2007

COVERALL NORTH AMERICA INC.

Complaint Misclassifying janitorial

Liss-Riordan is the legal force behind more than 100 Upper Crust workers, mostly Brazilian immigrants, who allege the now-bankrupt Boston pizza chain cheated them out of overtime pay.

She is also the lawyer who persuaded a federal judge in Boston to rule that Coverall North America Inc. owed $3 million for illegally collecting franchise fees from 100 cleaning workers. Suits are pending against a half-dozen major cleaning companies nationally.

Workers believe having Liss-Riordan on their side gives them the power to fight back.

“We can go up against a corporation and get our voice heard,” said Gerardo Vazquez, one of the lead plaintiffs in a federal class-action lawsuit against the cleaning company Jan-Pro Franchising International Inc.

Vazquez alleges that Jan-Pro charged him $10,000 to buy a franchise, but controlled his accounts and didn’t give him enough work to make a living.

Jeffrey Rosin, a Boston lawyer representing Jan-Pro, said Vazquez has no case because he bought his franchise from a California firm that holds regional rights to use the Jan-Pro name but is independent from Jan-Pro Franchising International.

Complaint Misclassifying janitorial workers as independent contractors, requiring them to pay franchise fees and insurance, and unfair and deceptive business practices.
Outcome Damages of $3 million awarded to 100 workers; Coverall appealing. About 100 additional individual arbitration cases pending.

KING ARTHUR’S LOUNGE
Complaint Misclassifying exotic dancers as independent contractors, requiring them to pay shift fees out of tips and tip out other employees.
Outcome Court ruled in favor of plaintiffs, confidential settlement reached for about 80 workers.

2008

STARBUCKS CORP.
Complaint Inclusion of shift supervisors in tip pool with baristas.
Outcome Federal court awarded $14 million to 11,000 baristas, final judgement could grow to $20 million. Identical case pending in New York.

2008-2012

FOUR SEASONS and other hotels in Hawaii; **DUNKIN’ DONUTS FRANCHISEES; HARVARD UNIVERSITY**
Complaint Not allowing waitstaff to keep all tips, or not distributing service charges to the waitstaff.
Outcome Cases pending. Won and settled dozens of similar cases, including $4 million settlement with Harvard Club.

"The facts are being twisted and convoluted to sway public and legislative opinion," Rosin said. "It's not an appropriate case to say that [Liss-Riordan is] vindicating the rights of workers because, from Massachusetts to California, Jan-Pro franchisees are testifying they are running independent, profitable businesses."

The International Franchise Association said these lawsuits are hurting the state's economy. Each new franchise that opens creates an average of 40 jobs, said Dean Heyl, director of state government relations for the association, but businesses have become reluctant to bring those opportunities here.

"This litigation has definitely had a chilling effect on franchises entering Massachusetts," Heyl said.

Class-action lawsuits make up the majority of Lichten & Liss-Riordan's caseload. Class actions are key to making companies obey wage and hour laws, Liss-Riordan said, because the cost of legal awards in cases brought by individual workers rarely affects the bottom line. Multiply that by 1,000, though, and executives start paying attention, she said.

The ability to file class actions has come under fire following a recent US Supreme Court decision that makes it easier for employers to insist on worker arbitration agreements.

2010

UPPER CRUST

Complaint Extorting back-wage payments from workers ordered by the Department of Labor.
Outcome Class action certified, scheduled for trial in August. Also pursuing claims in bankruptcy proceeding and against owners.

SYSTEM4 COMMERCIAL CLEANING and **ROBERT HALF**

Complaint Attempts to use arbitration agreements to prevent class actions.
Outcome Lower courts have ruled for workers; appeals by companies pending.

2012

SEVERAL LARGE BOSTON CAB COMPANIES, THEIR OWNERS, and **CITY OF BOSTON**

Complaint Misclassifying taxi drivers as independent contractors, requiring them to pay shift fees and expenses.
Outcome Case in progress, no trial date set.

> *'There are just so many ways that employers take advantage of low-wage workers.'*

Arbitration takes place out of the public scrutiny of courts, with confidential results, so a favorable outcome for one worker can't be used to help another. Cases may have to be filed individually and the worker could be required to share in the legal costs.

Liss-Riordan recently argued against this "privatization of justice" before the state Supreme Judicial Court. She told the justices her client should be allowed to bring a class-action suit against System4 Commercial Cleaning, regardless of the company's -arbitration-only agreement.

If the SJC rules in her favor, it could set a precedent for other states to find limitations in the Supreme Court decision. But a loss would reinforce the federal ruling, a major setback for practices like hers.

Already, a 2004 Coverall arbitration agreement has kept a group of workers from being a part of her class-action case. In response, her firm filed 100 individual arbitration claims, and forced the company to foot the bill.

Preserving the ability to file class-action lawsuits is vital, said Michael Harper, a Boston University law school professor, because workers need high-powered lawyers to take on big companies, and lawyers need a big group of plaintiffs to make it worth their while.

"The little people don't often have claims that without a class action would be worth pursuing," Harper said.

Indeed, Liss-Riordan's firm gets a third of the money its clients are awarded.

Nicholas Carter, a Boston attorney who has argued several tips cases against Liss-Riordan, said her firm is taking advantage of a restrictive state law that doesn't allow even a low-paid fast food shift manager to share money left in the tip jar.

"The plaintiff's bar is chasing the money and is not protecting the rights of the employees," Carter said.

The lawyers at Lichten & Liss-Riordan get paid only when they win. A $325,000 ruling — and five years of work — on behalf of American Airlines skycaps who claimed they were cheated out of tips was wiped out on appeal. The firm has yet to see a dime of the $3 million judgment against Coverall because it's tied up in appeals.

Liss-Riordan likes to get creative to help the workers she represents.

Last week at an auction selling off 10 Upper Crust locations, she and a co-investor bought the restaurant lease and equipment in Harvard Square. She plans to give employees ownership shares in the restaurant, and is considering naming it The Just Crust.

She also dreams of starting a worker-owned cleaning firm.

“It excites me to try to put the pieces of the puzzle together to create new ways to support workers and give them a leg up in the tug of war between workers and corporations,” she said.

Liss-Riordan is not shy about seeking out media coverage, which alerts other workers about their rights — and attracts new clients. But press coverage can complicate a case, some lawyers say, prompting companies to fight harder and lobby politicians to change the law in their favor.

The way Liss-Riordan sees it, the more awareness the better. Her firm has cases pending in 10 states — a number of which cover workers nationally — and she frequently hears from lawyers around the country. A California attorney who contacted her for advice on tips cases, for instance, went on to win a $100 million judgment against Starbucks in 2008.

As these cases spread, Liss-Riordan hopes unscrupulous companies will change their ways, and that workers who fought back will pave the way for others to be treated fairly.

“For years, many employers have operated their businesses thinking they held the entire deck of cards,” said Philip Gordon, president of the Massachusetts Employment Lawyers Association.

“Thanks to lawyers like Shannon, many of those employers are straightening out their act, and many employees who have suffered years of pay theft are finally getting their due.

“Talk about a legacy,” he said.

Katie Johnston can be reached at kjohnston@globe.com.

EXHIBIT G

boston.com

Skycaps and waiters find a legal champion

By Jonathan Saltzman
Globe Staff / April 29, 2008

Days after a federal jury ordered American Airlines to pay a group of nine local skycaps more than $325,000 in lost tips, the plaintiffs and their legal team celebrated with a boisterous dinner at Ruth's Chris Steak House at Boston's Old City Hall.

The skycaps ordinarily spend their workdays lifting heavy baggage onto carts at Logan International Airport's curbside, but on this recent evening they raised wine glasses and beer mugs over plates of rib eye steaks to toast their lead lawyer, Shannon Liss-Riordan, whom they dubbed "Sledgehammer Shannon."

The dinner party got superb service, Liss-Riordan said, which is hardly surprising; she recently filed class-action suits on behalf of waiters and waitresses at the upscale restaurant who have accused management of skimming their tips, too.

Since 2001, Liss-Riordan, a partner in a modest-size law firm in downtown Boston, has brought at least 40 lawsuits on behalf of waiters, bartenders, and other service workers in Massachusetts who say their employers cheated them out of tips.

She took an obscure 1952 state law that protects tip-dependent workers, who can legally be paid less than minimum wage, and has used it to reap millions of dollars in awards and settlements. Lawyers outside Massachusetts have adopted her strategy, including the lawyers who recently won a $100 million award for baristas at Starbucks cafes in California.

A Harvard Law School graduate who helped found a feminist activist group in the early

1990s, Liss-Riordan originally wanted to be a civil rights lawyer. Instead, the Houston native has become something of an avenging angel for workers who rely on customers' generosity as they carry plates of sirloin and scrod, mix mojitos and martinis, and hoist luggage.

"It's hard work," Liss-Riordan, 38, said of such jobs. "It's physically tiring, it's stressful, and you have to be good dealing with people. They work hard for those tips, and part of the problem with the industry is a lot of managers and owners look at the tips and think, 'They shouldn't be making that much money.' So they want to take a piece of it, or subsidize their labor costs for other employees."

Her clients speak of her almost reverently. Don Benoit, one of about 40 waiters who successfully sued the former Federalist restaurant in Boston in Suffolk Superior Court last year for failing to give them all of the 21 percent service charge added to bills at private functions, called her "brilliant." A former American Airlines skycap who expects to get about $3,000 in back tips from the airline said Liss-Riordan champions the "kickstand of corporate America."

But critics say she has manipulated an arcane and confusing law to reap a windfall for her clients and firm. If such litigation continues, detractors say, awards could skyrocket as a result of a state law passed this month mandating that employers pay triple damages for violations of so-called wage-and-hour laws. Critics say the suits hurt fragile businesses and, sometimes, her clients' co-workers.

"I have a lot of respect for Shannon, but I do see this cottage industry she's created around the tip statute as becoming abusive toward employers," said Ariel D. Cudkowicz, who has defended many restaurants, hotels, and Gillette Stadium against Liss-Riordan's suits, reaching out-of-court settlements in several. The prospect of large awards, he said, is "very alluring" to plaintiffs and their lawyers. Liss-Riordan's firm keeps one-third of the money it obtains for clients.

Liss-Riordan first made national headlines in the early 1990s when she joined the daughter of writer Alice Walker and helped founded the Third Wave, a nonprofit group that led voter registration drives in the wake of the Anita Hill-Clarence Thomas

hearings.

After graduating from Harvard Law in 1996 and clerking for a federal judge in Texas, she joined the firm Pyle, Rome, Lichten & Ehrenberg and has been there since. Her mentor, Harold L. Lichten, a well-known labor and employment lawyer, said she is "the smartest, most pugnacious, and toughest attorney I've ever met."

It is not uncommon for him to arrive at their Tremont Street office in the morning only to find Liss-Riordan at her desk after working through the night, he said, "which is particularly amazing given that she has three kids." Liss-Riordan's husband is a writer and stay-at-home father.

Most of her suits allege violations of a state law that prohibits management at restaurants, bars, and hotels from taking a portion of tips reserved for waiters and bartenders who can legally be paid as little as $2.63 an hour, well below the state's minimum wage of $8 an hour.

Some restaurants say other employees, including managers and maitre d's, deserve a share of tips because they sometimes serve food and drinks and also earn relatively low wages. But Liss-Riordan says that if those workers deserve more money, owners should raise their pay.

Defendants have included the Four Seasons Hotel, the Weston Golf Club, Northeastern University, the Palm, and Ruth's Chris, whose Boston lawyer declined to comment. One of the biggest awards came in 2006 when an Essex County jury ordered Hilltop Steakhouse in Saugus to pay an estimated $2.5 million in damages to wait staff, but both sides settled out of court before the judgment became final.

In 2004, the Legislature expanded the 1952 statute to cover employees outside the food and beverage industries, paving the way for Liss-Riordan's skycaps suit. In that complaint, skycaps contended the airline violated the tips law when it began charging passengers a $2-per-bag fee for curbside check-in service in September 2005. Skycaps testified that tips plunged because many passengers mistakenly thought the workers kept the $2 fee and were reluctant to tip on top of it.

The airline countered that it put up signs specifying that the fee excluded tips. But the jury sided with the plaintiffs, ordering the airline on April 7 to turn over all the fees to the skycaps. They will receive amounts ranging from $3,066 to $64,138, Liss-Riordan said. She has since filed similar suits on behalf of skycaps from United Airlines and US Airways.

Her co-counsel in about half the cases has been Hillary Schwab, a 34-year-old partner at the firm.

Lawyers elsewhere in the country have followed Liss-Riordan's lead. Last month, a San Diego County judge ordered Starbucks to pay at least 120,000 baristas in California more than $100 million in tips and interest to cover gratuities that the company handed over to shift supervisors.

Starbucks condemned the ruling and said the judge did not consider the interests of shift supervisors who "deserve their fair share of the tips." Nonetheless, Liss-Riordan wasted no time filing similar suits in Massachusetts and New York on behalf of baristas there.

Several people in the restaurant and hotel business say such litigation harms the industry. William Sander, general manager of the Fifteen Beacon Hotel, location of the former Federalist restaurant, criticized a December verdict siding with wait staff who said management illegally shared their tips with private dining room coordinators. He said the law was unclear about which employees were entitled to tips.

If restaurants are forced to pay managers more, he said, "you'll end up closing 90 percent of the restaurants in the country."

That's hogwash, said Liss-Riordan.

A well-managed business, she said, "does not dip into tips to make ends meet."

EXHIBIT H

CommonWealth
POLITICS, IDEAS & CIVIC LIFE IN MASSACHUSETTS

The worker's champion

Shannon Liss-Riordan represents cab drivers, baristas, exotic dancers, and waiters in class action lawsuits.

BY: ALYSSA MARTINO

July 15, 2013

BOSTON-BASED LAWYER Shannon Liss-Riordan has represented cab drivers, baristas, exotic dancers, and waiters in class action lawsuits, but as the new owner of a Harvard Square-based pizzeria she's hoping to set an example for the corporations against whom she spent the last dozen years fighting.

A Houston native and Harvard Law School graduate, Liss-Riordan's interest in public service law was sparked working for New York Congresswoman and 1970s women's movement icon Bella Abzug. Liss-Riordan eventually settled back in Boston to work at a labor and employment rights firm, and, four years ago, started a new firm, Lichten & Liss-Riordan, P.C., with longtime mentor Harold Lichten, focusing on class action lawsuits — particularly those involving workers deprived of fair pay by their employers.

Most recently, Liss-Riordan and her husband bought a franchise of the now bankrupt Upper Crust pizzeria after suing the chain for overworking and underpaying immigrant workers. The couple renamed their new eatery "The Just Crust," hiring displaced workers from its predecessor, using local ingredients and toppings, and vowing to make the restaurant a part worker-owned business.

CommonWealth's Alyssa Martino sat down with Liss-Riordan to discuss her legal work and her new ventures. Here is an edited version of that conversation.

COMMONWEALTH: What attracted you to cases surrounding employment issues and workers' rights?

SHANNON LISS-RIORDAN: I've always liked fighting for the underdog in our society and against the big powerful interests who think that because they're big powerful interests they can have their way. I found it really exciting to give a voice to those who have been traditionally dispossessed and really taken advantage of in our society. I try in my work to help literally balance the scales of justice.

CW: You've represented a diverse group of clients. Is there a common thread between them?

LISS-RIORDAN: We've seen the same scam happen over and over again, and that's how I've been able to build one set of cases off another. A particular model that's really been taken advantage of in order to push all of the expenses and risk of running a business onto employees is the independent contractor model. We've seen it with trucking companies, cab companies, cleaning companies, and strip clubs. By calling their workers "independent contractors," these businesses can make employees pay for their work and bear all of the risks, while the business owners just collect their money. We're looking at people working 70-80 hours a week, not even guaranteed to make minimum wage, not even guaranteed to make anything, and not making overtime for all those hours. I think that's wrong. Tips cases largely follow the same line because, once again, it's the employer turning to the employee to pay for something. Employers dig into tips to pay their managers, to pay their back-of-the-house non-service workers, and to pay for other things.

CW: Do you ever feel like there's a problem with the law, or even the system?

LISS-RIORDAN: It's sort of a combination, but there are some good laws on the books. Here in Massachusetts, our Legislature has been strong in standing up for workers' rights. Part of the problem is that there are laws out there that are not being fully enforced, and that's what our firm has worked very hard at doing: enforcing those laws.

CW: Should lawyers be the ones enforcing these laws?

LISS-RIORDAN: Well, private lawyers are a pretty effective means of enforcing laws. The way the world works is that government agencies are never going to be fully financed. I think what our state and federal enforcement agencies do is very important work, but they can't do it alone. The big corporations are always going to have deep pockets to pay lawyers to defend them, so it's really important there are advocates on the sides of the workers.
The hope is that not every single business that's breaking a law has to be individually sued. But what I found happening with the tips law in Massachusetts, through my dozen years of litigating these cases, is that sometimes it wasn't enough for these restaurants and hotels to read about my cases in the paper. They all had to be individually sued before they would change their practices. I've asked myself for years why that was, and it's because it's so profitable to ignore the law.

CW: How do you decide if a class action suit is worth taking on?

LISS-RIORDAN: There's not really a science; it's more an art. One factor we look at is how big an impact the case would have. How many people would it cover? What's the size of the company? Could they support paying people back for this kind of violation? We also just look at what we consider to be important, or interesting, issues. Even if a case wouldn't affect a whole lot of people, [we think about] if it could set some important precedent that *could* in fact affect a lot of people, and then that's the kind of case that would also be interesting for us to take.

CW: One of your biggest victories was a $14 million case against Starbucks for breaking a law prohibiting supervisors from sharing in baristas' tips. Did Starbucks put up a big fight?

LISS-RIORDAN: Yes. That case took five years. It was fiercely litigated on both sides, and I'm very pleased with the outcome. What happened after I won the case, and then got it affirmed by the court of appeals late last year, was that Starbucks changed their practices in Massachusetts and they took supervisors out of the tip pool. It's been reported that they raised their supervisors' pay by almost $3 per hour, which is exactly the result I wanted to see. What's infuriated me about the whole tip fight is employers who have tried to pose it as a battle between different levels of employees, and that's not what it is. It's really a battle between the workers and the company over who was going to pay those extra wages to the supervisors. And, yes, I do think Starbucks can afford another 2-3 bucks an hour to pay its supervisors to make up for them not being in the tip pool.

CW: In 2007, you represented exotic dancers being misclassified as independent contractors at King Arthur's Lounge. Did you ever go there to research the case?

LISS-RIORDAN: I haven't actually been to King Arthur's, I have to admit. But I have been inside a strip club, so I do know what it's like. After the King Arthur's case, we have represented exotic dancers at a number of clubs in Massachusetts and other parts of the country, and I'm really proud to represent those workers. Some of the women who we have talked to are just doing an amazing thing supporting themselves, many of them as single mothers. There are a lot of problems, obviously, in the strip club industry with abuses—not just wage violations—against women who are basically forced into prostitution and are really vulnerable and taken advantage of in a lot of ways. To see them come together and enforce their rights in this very concrete way, which has a real impact on them and their coworkers, has just been really gratifying. Last week we got awards for these two individual dancers. One of them won $70,000, and the other won $60,000.

CW: How much of those awards go to the clients, and what percentage does your firm take?

LISS-RIORDAN: We do our cases all on a full contingency basis because the people we represent can't afford to pay lawyers. No one who comes to us has to pay anything up front or out of pocket. We take all of the risk on the cases. We use a standard contingency for all of our cases of one-third of what we recover.

CW: Do you think that some of these rulings might dissuade new businesses from opening in Massachusetts?

LISS-RIORDAN: I'm in a really interesting, unique position to answer that question because I now am part-owner of one of those businesses that just opened a few weeks ago. It certainly has not dissuaded us.

CW: Why did you buy one of The Upper Crust franchises?

LISS-RIORDAN: My husband and I decided we would just do our little part and we bought the Harvard Square location at an auction and pledged to make it a part worker-owned business. I'm really excited, and we're hoping to turn The Just Crust into a model for other businesses to follow. It's based on the premise that the employees who perform the work for an organization, particularly an organization that is so service-intensive, are vital to the success of the business. If the workers are well-treated, if the workers feel an ownership in what they do, they're going to be happier, they're going to do a better job, and the business is going to succeed and thrive.

CW: Both you and your clients seem to be everywhere in the media. Are you a publicity hound?
LISS-RIORDAN: I feel like every victory and undertaking is magnified if we can spread the word about it. So, yes, I like being in the media and I like getting the word out. It's really exciting having so many things to talk to the public about and raise awareness about all of these issues that are really important to our society, which a lot of people might not think about unless they read about it in the paper.

CW: Why did you put a bid out to buy the *Boston Globe* from the New York Times Company?

LISS-RIORDAN: I love the *Boston Globe* and read it religiously every morning. I think, with all the current focus on local products and services, people should be reading their local newspapers, and everyone who lives in the Boston area — no matter where else they also get their news from — should read the *Globe*.

Let me just say that I am really excited about the concept that I've begun with The Just Crust, experimenting with worker-owned business, and I'm looking at it in a number of industries. I'm looking at it in the cleaning industry, where I've, for many years, been battling these large national cleaning companies who have exploited immigrant workers. I'm seeing if there's something I can do there to help jumpstart a worker-owned cleaning business. Given that newspapers are based on the work and efforts of their employees, the reporters and the people who make them what they are, I think it's another really interesting area for modeling a part employee-owned business.

EXHIBIT I

MASSACHUSETTS LAWYERS WEEKLY www.masslawyersweekly.com October 20, 2014

Shannon Liss-Riordan

Partner, Lichten & Liss-Riordan | Harvard Law School

2014 Top Women of law

With a nickname like "Sledgehammer Shannon," it's clear that Shannon Liss-Riordan is not afraid to fight for her clients.

Working with Bella S. Abzug after college taught Liss-Riordan about the power lawyers could have in shaping society and advocating for what they believe in.

Knowing she wanted to focus on civil rights in the employment law arena, Liss-Riordan fell into wage and hour work. "It is a fascinating area of the law and a great place to be able to do some good in the world for working people," she says.

Liss-Riordan's clients have ranged from waiters and bartenders to exotic dancers to airline skycaps. A group of American Airlines skycaps came up with her nickname after she won a $325,000 verdict on their behalf.

Recently, she has turned her attention to cleaning workers and cab drivers.

"I've really enjoyed representing a wide variety of working people, seeing how the law might be applied to them and helping even out the balance of power a bit between workers and employers," she says.

Liss-Riordan has also advocated for low-wage workers at the State House and was recently invited to join the board of Public Citizen, the consumer rights organization founded by Ralph Nader.

She expects to continue her focus on wage and hour cases, although she's concerned about the potential for plaintiffs to be shut out of the courtroom because of class action waivers included in arbitration agreements used by employers.

"Courts are increasingly enforcing these agreements and it is changing how we practice law in this area," she says. For example, instead of filing a class action, Liss-Riordan recently filed 100 individual arbitration disputes.

Despite the challenges, "I feel really fortunate to be able to pursue justice for workers and people who have not historically had the power in their relationships and create inroads in relatively new areas of the law," she says. "I'm proud of the nickname because it means that I'm a strong advocate for my clients."

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EXHIBIT J

MASSACHUSETTS LAWYERS WEEKLY
www.masslawyersweekly.com

Lawyers Weekly, Inc.

December, 2002

Lawyer Of The Year 2002

Shannon E. Liss-Riordan

Boston
Born: May 29, 1969; Houston
Education: Harvard Law School, 1996; Harvard College, 1990
Massachusetts bar admission: 1999
Legal experience: Pyle, Rome, Lichten & Ehrenberg, partner (1998-present); law clerk to U.S. District
Court Judge Nancy F. Atlas, Houston (1996-1998)
Bar affiliations: Massachusetts Bar Association, National Employment Lawyers Association

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Her record speaks for itself.

In 2002, Shannon E. Liss-Riordan won two key discrimination cases and two federal injunctions protecting the First Amendment rights of employees, and began work on several cases that could affect future plaintiffs.

"My favorite cases are ones that require pushing the law," she says.

In January, Liss-Riordan was one of the lead lawyers in the trial of Dahill v. Boston Police Department, in which a federal jury awarded more than $800,000 to a Boston Police Academy recruit who was fired when the department concluded that his use of hearing aids was dangerous. In that case, the Supreme Judicial Court decided by certified question that individuals with correctable disabilities may bring discrimination cases under Chapter 151B, a ruling that rejected the applicability of the U.S. Supreme Court's ADA decision in Sutton v. United Airlines.

Seven months later, Liss-Riordan teamed up with the Disability Law Center in federal court to win a $1.1 million award against United Airlines for its refusal to hire an experienced airline mechanic because he was deaf.

In a third case, she also won federal injunctions ordering the Massachusetts State Police to admit one recruit who had been disqualified for owning adult bookstores and another who was wrongly disqualified for living with a former felon.

Her year's work also featured 11 class action lawsuits against food service establishments that are allegedly skimming tips from wait staff, discrimination suits for a kidney transplant recipient and an insulin-dependent fireman, and a suit against the City of Everett for allegedly requiring an employee to violate federal equal access laws.

And she did most of this while pregnant with her second child.

In fact, she loves her work so much that she continued working from home during maternity leave in November and was talking to a co-worker about her pending cases just hours after giving birth.

* * *

Q. What were your most satisfying victories last year and why?

A. Both the Sprague [the airline mechanic] and Dahill [the police officer] cases were most satisfying. In both, my team represented someone with a lifelong dream of pursuing a career and they were held back for illegitimate reasons. It was great to see both plaintiffs get their jobs and the opportunity to get back their dreams.

Q. In the Dahill case, what was the key to victory?

A. Legally, the key was convincing the SJC that the [U.S.] Supreme Court took a wrong turn when it limited who could pursue a disability claim. That gave us the chance to go to trial. [At trial,] the key was putting all the pieces together from different angles to undermine the Police Department explanation for terminating Mr. Dahill. Those pieces included audiological experts, the plaintiff's own testimony, witnesses who were in the police academy with Dahill, and another hearing-impaired police officer who could testify to his ability to perform with hearing aids.

Q. What are the special challenges of representing plaintiffs with hearing impairments?

A. There are societal misperceptions [that] can influence an employer's decision about an individual's ability to do a job. Juries can come to trial with their own misperceptions too. A plaintiffs' lawyer has to make sure that stereotypes won't influence a jury's decision. That's partly what led us to waive a jury in the Sprague trial. We were worried that lay people would feel uncomfortable about letting a deaf person work on airplanes. We felt a judge could better sift through the evidence and decide the matter factually. But we were also pleased to see the Dahill jury overwhelmingly reject the Police Department defense.

Q. What were the special challenges in your First Amendment cases?

A. The plaintiffs I represented were denied jobs for reasons that might not seem sympathetic to the general public. By its very nature, First Amendment work often means representing someone with unpopular beliefs or someone who associates with people engaged in some activity that is not publicly supported. One plaintiff I represented owned adult bookstores and that is obviously not popular with large segments of the public. Another plaintiff was a woman with a boyfriend who served time for drug trafficking and weapons possession. It was a challenge to persuade the court that both individuals had constitutionally protected rights at stake that outweighed the employer's concerns about them as police officers.

In one case, the police argued that the mere presence of a man who owned adult bookstores could create an uncomfortable environment for women officers, but we argued that his First Amendment rights protected what he did on his own time. In the case involving a police recruit who had a boyfriend with a felony record, the police argued that the man would illegally have access to a gun because police are required to keep one with them at all times. But it was not clear that her weapon had to be kept at her home. We argued it could be kept in a relative's house next door or in another accessible location under lock and key.

Q. How do you decide what cases to take and what you screen out?

A. That's a complicated question. There's a balance of many factors. I love listening to people's stories. Generally, I have a really hard time turning down a good case with a compelling story. Bad cases are when the facts are so cloudy that it is uncertain whether we can obtain a good result for them. Sometimes,

people have great facts and the law is not on their side, but I take some of those to push the law, too.

Q. Why did you choose to represent plaintiffs in employment law?

A. I went to school for civil rights law, and found a natural gravitation to employment. I still do some civil rights work that is not employment related, but I think people's jobs and careers are most important to them. I also find it fascinating to learn about so many different fields of occupation. This year alone I learned about police work, the printing industry and the restaurant industry — and I basically learned how to take an airplane apart and put it back together. Every time I go into a new field I get more insights into what different people do every day.

Q. You have successfully sued police departments and the police academy a number of times. How do you respond to people who say this just raises the cost of policing?

A. Police officers have rights like everyone else. Because we have laws against discrimination, I think it is especially important for government entities to follow the law. Lawsuits in general increase societal costs, but society has decided to pass laws giving people workplace rights. Having decided that discrimination should not be tolerated, we must prohibit it. Plaintiffs' lawyers are essentially upholding these laws.

Q. How do you respond to those who say that plaintiffs' lawyers just increase the amount of "red tape" for employers? A. When a plaintiff files suit and prevails, that individual has had to overcome many obstacles to demonstrate that law was broken. For every person who wins, many more are not able to overcome those obstacles, and many never sued but could have. Those who are successful have immeasurable impact on and benefit to others who don't have to go to court in the future. Every case resolved through the courts gives employers and employees more idea of what their rights and responsibilities are and thereby prevents some litigation in that regard.

Q. What kind of response are you getting to the 11 class actions you filed against restaurants for allegedly skimming portions of tips from servers?

A. There has been a great deal of response. These suits have raised awareness in the restaurant industry about the Massachusetts wage law that protects tipped employees. Although it has been on the books for a long time, many people have not been aware of it. The law says that wait staff get to control tips received, and service charges should be distributed to employees actually engaged in service. The sense I got from speaking with many waiters is that this law has been often ignored. There is much excitement about making sure that owners and managers are not taking part of the tips intended for servers.

Q. What keeps you inspired?

A. I love working with people. I get excited about trying to help people. That's why I went into law. I relish a good challenge. I also love that my career brings together many different kinds of work. I have to do legal analysis, writing, speaking and interviewing of others. I see myself as entrepreneurial and creative. I have to create a suit with specific theories and figure out how to get a certain result and remedy. I love the strategy and putting the pieces together to get the results.

Q. What is the single biggest problem facing plaintiffs in employment law?

A. I think the trend of employment law has been moving against plaintiffs for many years. The biggest challenge is having to deal with new procedural and substantive obstacles constantly in the way of pursing an employment suit. Every time a new decision like Sutton comes down, it makes it more difficult and fewer plaintiffs get to be heard.

Q. Is there a danger in allowing people with correctable disabilities to sue, and does this open a can of

worms?

A. Not at all. It is the people who are able to overcome their disabilities that the disability discrimination law was designed to help. People who have a way of performing their job despite their disabilities are the very people who should be allowed to work. People who can't overcome their disabilities won't be able to do the job. When the U.S. Supreme Court closed off suit for people who can overcome disability through correctable devices, it really closed off the law to most of the people it was designed to redress.

And there is no merit to the floodgates argument. In Massachusetts, those with correctable disabilities have been protected and there has hardly been a wave of litigation. Almost all federal circuits had gone the other way before the Sutton opinion. Dahill just took us back to where we were in Massachusetts.

Q. What do you say to those who contend that policemen or persons in safety-sensitive professions should seek alternative employment if they have disabilities?

A. In order to win a disability discrimination claim, a plaintiff has to show that he or she is capable of performing the essential functions of job. That includes safety concerns. The only people who can win are those who can show no undue risk to themselves or others. They should not be in position otherwise, and will not win a discrimination lawsuit. Q. The MCAD is clogged with cases. Are too many people suing for bias?

A. The backlog is because we are understaffed and underfunded. The MCAD issues probable cause findings in a small number of cases, and the most resources are used in cases that get past the probable cause stage and have some merit. Non-meritorious claims do not cause the backlog. Also, many people go to the MCAD without lawyers. It is a relatively user- friendly forum, but that can slow down the process a bit because lawyers know how to streamline cases. The MCAD could greatly benefit from having more resources. They could also help people without lawyers more efficiently. Q. What case this year was your greatest challenge and why?

A. The Sprague case was a huge challenge. It involved an industry that was unfamiliar to my co-counsel and me. There was an incredibly vast amount of detail and information regarding airline mechanics and maintenance, and what is required to fix or service an airplane. Preliminary injunction work is also a big challenge. You basically have to compress an entire piece of litigation into days, and put aside all your other work. But it is very satisfying to get a resolution in days and not a matter of years.

Questions or comments may be directed to the writer at jcunninghgam@lawyersweekly.com.

EXHIBIT K

Lichten & Liss-Riordan, P.C.

THE FIRM This boutique firm is particularly strong in wage and hour class action work, with a team dedicated to plaintiff and union representation in this space. The firm has considerable arbitration, trial and appellate experience, and is particularly well versed in plaintiff tips cases and employment issues relating to immigrant workers.

KEY INDIVIDUALS Shannon Liss-Riordan is considered a leader of the wage and hour litigation Bar, where she is described by peers as *"the reigning plaintiff's champion."* She has a nationwide practice, and is highly experienced in cases involving tipped employees.

Harold Lichten is held in high esteem for his expertise as a seasoned litigator, with a wealth of experience in state, federal and appellate courts. He has particular expertise in representing police and firefighter unions.

Chambers 2013

Labor & Employment: Mainly Plaintiffs Representation: Massachusetts